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Tuesday
May 16, 1989

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WHO: The Office of the Federal Register.

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Reader Aids
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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 5975 of May 11, 1989

National Stroke Awareness Month, 1989

By the President of the United States of America

A Proclamation

Stroke is the third leading cause of death in the United States and a major cause of adult disability. It strikes between 400,000 and 600,000 Americans each year. Many of its victims, their brain cells damaged by impaired circulation, never fully regain their physical and mental abilities. Stroke costs this country more than $11 billion annually in medical treatment and lost productivity, but far more regrettable is the immeasurable suffering it brings to victims and their families.

Stroke occurs suddenly, abruptly ending careers and thwarting plans for the future. Its causes, however, are more subtle. Stroke can result from a blood clot that blocks circulation, a buildup of fatty deposits in arteries that then become dangerously narrow, or the rupture of a blood vessel in the brain. Smoking, diabetes, and stress also may contribute to a stroke attack.

Stroke can often be avoided by controlling its risk factors. Paying attention to stroke's warning signals, particularly the symptoms of a transient ischemic attack, or "little stroke," can prevent serious damage to a victim's health and may even save his life. During this temporary attack, a person may experience numbness, weakness, or tingling in an extremity or side of the face, momentarily lose sight in one or both eyes, or have difficulty speaking. Such a "little stroke" requires immediate medical attention to prevent its probable recurrence as a major attack.

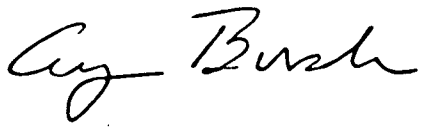
Scientists, physicians, and public health educators are working hard to eliminate the threat of stroke. Within the Federal Government, the research assault on this disease is being led by the National Institute of Neurological Disorders and Stroke. Several major clinical trials of preventive treatments are currently being conducted, and 13 clinical research centers have been established in medical complexes across the country.

However, because so many of the condition's risk factors can be minimized by personal effort, public awareness is the key weapon in conquering stroke. The National Stroke Association, the National Heart Association, and other private voluntary agencies play an important role in educating the public about stroke and provide valuable services for victims and their families. We do well to support their efforts and to heed their advice in caring for our health.

To enhance public awareness of stroke, the Congress, by Senate Joint Resolution 62, has designated the month of May 1989 as "National Stroke Awareness Month" and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the month of May 1989 as National Stroke Awareness Month. I call upon the people of the United States to observe the month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of May, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.



[FR Doc. 89-11881
Filed 5-12-89; 4:11 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5976 of May 11, 1989

National Correctional Officers Week, 1989

By the President of the United States of America

A Proclamation

In the continuing fight against crime and drug abuse, our Nation's correctional officers are unsung heroes. The contributions they make to American law enforcement, while not highly visible, are substantial. These men and women are responsible for ensuring the custody, control, and safety of inmates held in U.S. jails and prisons. Directly supervising the incarceration and rehabilitation of criminal offenders, correctional officers are an essential part of our Nation's criminal justice system.

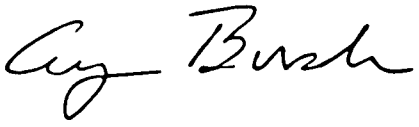
Correctional officers help to maintain the public safety by preserving order in our Nation's jails and prisons. They also help inmates to develop the skills necessary to become productive members of society. These are very difficult tasks—tasks that can be dangerous as well as frustrating.

This week, we give America's correctional officers due recognition and respect and salute them for their vigilance and courage. In the future, as we strive to put more drug dealers and other criminals behind bars, let us always remember that it is correctional officers who help to make our efforts complete.

The Congress, by House Joint Resolution 135, has designated the week beginning May 7, 1989, as "National Correctional Officers Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning May 7, 1989, as National Correctional Officers Week. I call upon the people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of May, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.



[FR Doc. 89-11882
Filed 5-12-89; 4:12 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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Tuesday, May 16, 1989

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

7 CFR Part 1610

Rural Telephone Bank Loan Policies

AGENCY: Rural Telephone Bank, USDA.

ACTION: Final rule.

SUMMARY: The Rural Telephone Bank (the "Bank") hereby amends Part 1610, Loan Policies, of Chapter XVI in Title 7 of the Code of Federal Regulations by amending § 1610.8. This amendment shall provide for the Bank's utilization of the Rural Electrification Administration's (REA) regulations as published in 7 CFR Chapter XVII.

This action is necessary because REA is in the process of codifying its regulations and phasing out the use of Bulletins. Consequently, the current reference in § 1610.8 to Bulletins exclusively is no longer adequate to ensure that the Bank follows REA regulations.

All Bank borrowers will be affected by this amendment to § 1610.8.

EFFECTIVE DATE: May 16, 1989.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Chief, Loans and Management Branch, Telecommunications Staff Division, Rural Electrification Administration, Room 2250, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382-9550. The Final Regulatory Impact Analysis describing the options considered in developing this rule amendment is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This rule is issued in conformity with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, this rule has been determined to be "not major."

This action does not fall within the scope of the Regulatory Flexibility Act. The Bank has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.851, Rural Telephone Loans and Loan Guarantees, and 10.582, Rural Telephone Bank Loans. For the reasons set forth in the final rule related Notice to 7 CFR Part 3015, Subpart V (50 FR 47034, November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This rule amendments contains no information or recordkeeping requirements which would require approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 et. seq.).

For its inception, the Bank has followed REA's practices and policies as closely as possible. The Bank was created in 1971 by an amendment to the Rural Electrification Act of 1936 (RE Act) (7 U.S.C. 901 et seq.) Authority to administer the entire RE Act, including REA and the Bank, are delegated to the Administrator of REA, who is also the Governor of the Bank, its top administrative official. While the Bank has a Board of Directors, it is operated entirely by REA personnel.

This amendment to 7 CFR Part 1610 is simply a technical change to reference other CFR sections and, therefore, requires no public comment period of its own.

Background

REA Bulletins, insofar as applicable, currently are utilized by the Bank's Governor in carrying out the Bank's loan program. These Bulletins are being superseded by various parts of the Code of Federal Regulations. This amendment to § 1610.8 is necessary to recognize this change in REA's regulations.

This rule amendment will continue the intended effect of the present 7 CFR 1610.8 by making the Bank subject to new REA regulations as they become effective. As a result, the Bank will be able to update and streamline its policies and procedures merely by adopting REA's new and revised CFR parts or sections. Considerable administrative time and money will be saved by continuing to have the Bank and REA follow the same regulations.

The parts of 7 CFR Chapter XVII applicable solely to the Electric Program and thus exceptions to this rule are:

Part	Subject matter
1710	Electric loan policies and application procedures.
1711	Electric loans—advance of funds.
1729	Electric system planning and design.
1735	REA standard form of electric contracts.
1736	Electric standards and specifications.

List of Subjects in 7 CFR Part 1610

Loan programs—communications, Telecommunications, Telephone.

Therefore, the Bank hereby amends 7 CFR Part 1610 as follows:

PART 1610—[AMENDED]

1. The authority citation for 7 CFR Part 1610 continues to read:

Authority: 85 Stat. 29 et seq., 7 U.S.C. 941 et seq., as amended.

2. Section 1610.8 is revised as follows:

§ 1610.8 Adoption of Applicable REA Policy.

The policies embodied in 7 CFR Part 1610, in all parts of 7 CFR Chapter XVII except those identified below, and in the REA Telephone Program bulletins listed in Appendix A of 7 CFR Part 1701 as published at 40 FR 16075, Apr. 9, 1975, and amended at 40 FR 31956, July 30, 1975, will be utilized by the Governor in

carrying out the Bank's loan program to the extent that such policies are consistent with Title IV of the Act (7 U.S.C. 941 et seq.) and to the extent that policies in 7 CFR Chapter XVII and Appendix A bulletins are consistent with 7 CFR Part 1610.

Dated: May 10, 1989.

Jack Van Mark,

Acting Governor, Rural Telephone Bank.

[FR Doc. 89-11692 Filed 5-15-89; 8:45 am]

BILLING CODE 3410-15-M

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No 89-081]

Tuberculosis in Cattle and Bison; State Designation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the regulations concerning the interstate movement of cattle and bison because of tuberculosis by raising the designation of Florida from a modified accredited state to an accredited-free state. We have determined that Florida meets the criteria for designation as an accredited-free state.

DATES: Interim rule effective May 16, 1989. Consideration will be given only to comments received on or before July 17, 1989.

ADDRESSES: Send an original and three copies of written comments to Helene R. Wright, Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 89-081. Comments received may be inspected at Room 1141 of the South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Ralph L. Hosker, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, Room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5533.

SUPPLEMENTARY INFORMATION:

Background

The "Tuberculosis" regulations contained in 9 CFR Part 77 (referred to below as the regulations) regulate the interstate movement of cattle and bison because of tuberculosis. The requirements of the regulations concerning the interstate movement of cattle and bison not known to be affected with, or exposed to, tuberculosis are based on whether the cattle and bison are moved from jurisdictions designated as accredited-free states, modified accredited states, or nonmodified accredited states.

The criteria for determining the status of states (the term state is defined to mean any state, territory, the District of Columbia, or Puerto Rico) or portions of states are contained in a document captioned "Uniform Methods and Rules—Bovine Tuberculosis Eradication," 1985 edition, which has been made part of the regulations via incorporation by reference. The status of either states or portions of states is based on the rate of tuberculosis infection present and the effectiveness of a tuberculosis control and eradication program.

Before publication of this interim rule, Florida was designated in § 77.1 of the regulations as a modified accredited state. However, Florida now meets the requirements for designation as an accredited-free state. Therefore, we are amending the regulations by removing Florida from the list of modified accredited states in § 77.1 and adding it to the list of accredited-free states in that section.

Immediate Action

James W Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that good cause exists for publishing this rule without prior opportunity for public comment. It is necessary to change the regulations so that they accurately reflect the current tuberculosis status of Florida as an accredited-free state. This will provide prospective cattle and bison buyers with accurate and up-to-date information, which may affect the marketability of cattle and bison since some prospective buyers prefer to buy cattle and bison from accredited-free states.

Since prior notice and other public procedures with respect to this rule are impracticable and contrary to the public interest under these circumstances, there is good cause under 5 U S.C 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**, including discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle and bison moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Florida may affect the marketability of cattle and bison from the state, since some prospective cattle and bison buyers prefer to buy cattle and bison from accredited-free states. This may result in some beneficial economic impact on some small entities. However, based on our experience in similar designations of other states, the impact should not be significant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Transportation, Tuberculosis.

Accordingly, we are amending 9 CFR Part 77 as follows:

PART 77—TUBERCULOSIS

1. The authority citation for Part 77 continues to read as follows:

Authority: 21 U.S.G. 111, 114, 114a, 115–117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 77.1 [Amended]

2. Section 77.1, paragraph (2) of the definition for "Modified accredited state" is amended by removing "Florida."

3. Section 77.1, paragraph (2) of the definition for "Accredited-free state" is amended by adding "Florida," immediately before "Georgia,".

Done in Washington, DC, this 10th day of May 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–11689 Filed 5–15–89; 8:45 am]

BILLING CODE 3410–34–M

[Docket No. 88–135]

9 CFR Part 85

Pseudorabies

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the pseudorabies regulations by removing all references to "Deputy Administrator" and replacing them with references to "Administrator." We are also removing certain references to "Veterinary Services" and replacing them with references to the "Animal and Plant Health Inspection Service." These changes are warranted so the regulations will accurately reflect that the Administrator of the agency holds the primary authority and responsibility for various decisions under the regulations.

EFFECTIVE DATE: May 16, 1989.

FOR FURTHER INFORMATION CONTACT: Helene R. Wright, Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, Hyattsville, MD 20782, 301–436–8682.

SUPPLEMENTARY INFORMATION:

Background

Pseudorabies, also known as Aujeszky's disease, mad itch, and infectious bulbar paralysis, is caused by a herpes virus and is primarily a disease of swine. The regulations in 9 CFR Part 85 (referred to below as the regulations) govern the interstate movement of swine and other livestock (cattle, sheep, goats) in order to prevent the spread of pseudorabies. Prior to the effective date of this document, these regulations indicated that the Deputy Administrator of the Animal and Plant Health Inspection Service (APHIS) for Veterinary Services was the official responsible for various decisions under these regulations. We are revising 9 CFR Part 85 to indicate that the primary authority and responsibility for various decisions under these regulations belongs to the Administrator of the agency. We are making similar revisions in all other APHIS regulations. These revisions will be published in separate **Federal Register** documents.

With these changes the term "Deputy Administrator" no longer appears in the text of the regulations. Therefore, we are deleting the definition of "Deputy Administrator." We are also adding a definition of "Animal and Plant Health Inspection Service." In addition, we are making nonsubstantive wording changes for clarity.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity to comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

These programs/activities under 9 CFR Part 85 are listed in the Catalog of Federal Domestic Assistance under No. 10.025 and are subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 85

Animal diseases, Livestock and livestock products, Pseudorabies, Quarantine, Transportation.

Accordingly, we are amending 9 CFR Part 85 as follows:

PART 85—PSEUDORABIES

1. The authority citation for Part 85 continues to read as follows:

Authority: 21 U.S.C. 111, 112, 113, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 85.1 [Amended]

2. In § 85.1, the definition of "Deputy Administrator" is removed and the definition of "Accredited veterinarian" and "Administrator" are revised to read as follows:

* * * * *

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with the provisions of Part 161 of this title to perform functions specified in Parts 1, 2, 3, and 11 of Subchapter A, and Subchapters B, C, and D of this chapter, and to perform functions required by cooperative state-federal disease control and eradication programs.

* * * * *

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

* * * * *

3. In § 85.1, a definition of "Animal and Plant Health Inspection Service" is added, in alphabetical order, to read as follows:

* * * * *

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS or Service).

* * * * *

4. In § 85.1 and the accompanying footnotes for the section, the word "Deputy" is removed wherever it appears.

5. In § 85.1, in the definitions for "Certificate" and "Permit," the words "a Veterinary Services" are removed and the words "an Animal and Plant Health Inspection Service" are added in their place.

§ 85.8 [Amended]

6. In § 85.8 the words "Veterinary Services" are removed both places they appear and the words "The Animal and Plant Health Inspection Service" are added in their place and the word "Deputy" is removed from the first sentence.

Done at Washington, DC, this 10th day of May 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–11691 Filed 5–15–89; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 775

[Docket No. 90372-9072]

Import Certificate/Delivery Verification Procedure for Australia; Termination of Grace Period

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: On July 5, 1988 (53 FR 25144) the Bureau of Export Administration published a final rule establishing new documentation requirements for exports to Australia under the Import Certificate/Delivery Verification (IC/DV) procedure. The rule provided that as of August 19, 1988, the Bureau of Export Administration would begin accepting the Australian Import Certificate as supporting documentation for the export license application (Form BXA-622P). It also provided a grace period until October 3, 1988 within which either the Australian Import Certificate or the Statement by Ultimate Consignee and Purchaser (Form ITA-629P) would be accepted by the Bureau of Export Administration and that after October 3, 1988 only the Import Certificate would be acceptable. That rule was amended by a notice of August 1, 1988 (53 FR 28864) that extended the grace period indefinitely in order to allow both governments more time to integrate their procedures for implementing new documentation requirements. This rule amends the previous rule by establishing the date of June 15, 1989, whereby only the Australian Import Certificate will be accepted to support an export license application for "A" level commodities.

EFFECTIVE DATE: This rule is effective June 15, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. The Import Certificate and Delivery Verification (IC/DV) requirement set forth in Part 775 supersedes the requirement for Form ITA-629P, Statement by Ultimate Consignee and Purchaser (approved by the Office of Management and Budget under control number 0694-0021) to accompany license applications (approved under OMB control number 0694-0005) for exports and reexports to Australia. The Import Certificate and Delivery Verification are issued by the Government of Australia and do not constitute collection of information requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. Section 13(a) of the Export Administration Act of 1979, as amended (EAA) (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 775

Exports, Reporting and recordkeeping requirements.

Accordingly, Part 775 of the Export Administration Regulations is amended as follows:

PART 775—[AMENDED]

1. The authority citation for 15 CFR Part 775 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, Pub. L. 99-64 of July 12, 1985 and Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

§ 775.1 [Amended]

2. The table in § 775.1 is amended by removing footnote 1 (and its reference after the word "Australia" in the column titled "and the country of destination is").

§ 775.3 [Amended]

3. Section 775.3(b) is amended by removing footnote 1 (and its reference, "For exports to Australia, the Bureau of Export Administration will accept either the Australian Import Certificate or Form ITA-629P, Statement by Ultimate Consignee or Purchaser") and redesignating footnote 1(a) as footnote 1.

4. Supplement No. 1 to Part 775 is amended by revising the entry for Australia to read as follows:

Supplement No. 1 to Part 775—Authorities Administering Import Certificates/Delivery Verification Systems in Foreign Countries [1]

Country	IC/DV Authorities	System administered [2]
Australia.....	Director, Technology Transfer and Analysis, Industry Policy and Operations Division, Department of Defense, Russell Office, Canberra A.C.T. 2600.	IC/DV

[2] IC—Import Certificate and/or DV—Delivery Verification

Dated: May 10, 1989.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 89-11620 Filed 5-15-89; 8:45 am]

BILLING CODE 3510-DT-M

[1] Facsimiles of Import Certificates and Delivery Verifications issued by each of these countries may be inspected at the Bureau of Export Administration Western Regional Office, 3300 Irvine Avenue, Suite 345, Newport Beach, California 92660-3198 or at any U.S. Department of Commerce District Office or at the Office of Export Licensing, Room 1099D, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AA26

Ranges of Comparability Using Energy Cost and Consumption Information for Labeling and Advertising of Refrigerators, Refrigerator-freezers, and Freezers

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission amends its Appliance Labeling Rule by revising the ranges of comparability used on required labels for refrigerators, refrigerator-freezers, and freezers.

Under the rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. This notice publishes the new range figures, which, under §§ 305.10, 305.11 and 305.14 of the rule, must be used on labels on refrigerators, refrigerator-freezers, and freezers manufactured on and after August 14, 1989, and in advertising of refrigerators, refrigerator-freezers, and freezers in catalogs printed after August 14, 1989. Properly labeled refrigerators, refrigerator-freezers, and freezers manufactured prior to the effective date need not be relabeled. Catalogs printed prior to the effective date in accordance with 16 CFR 305.14 need not be revised.

EFFECTIVE DATE: August 14, 1989.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035, or Ruth Sacks, Research Analyst, 202–326–3033, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Section 324 of the Energy Policy and Conservation Act of 1975 (EPCA)[1] requires the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances. Refrigerators, refrigerator-freezers, and freezers are included as one of the categories. Before these labeling requirements may be prescribed, the statute requires the Department of Energy ("DOE") to develop test procedures that measure how much energy the appliances use. In addition, DOE is required to determine the representative average cost a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final rule [2] covering seven of the thirteen appliance categories, including refrigerators, refrigerator-freezers, and freezers.

The rule requires that energy costs and related information be disclosed on labels and in retail sales catalogs for all refrigerators, refrigerator-freezers, and freezers presently manufactured. Certain point-of-sale promotional materials must disclose the availability of energy usage information. If a refrigerator, refrigerator-freezer or freezer is advertised in a catalog from which it may be purchased by cash, charge account or credit terms, then on each page of the catalog that lists the product shall be included the range of estimated annual energy costs for the product. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of the DOE test procedures.

Section 305.8(b) of the rule requires manufacturers, after filing an initial report, to report annually by specified dates for each product type.[3] The data submitted by manufacturers are based, in part, on the representative average unit cost of the type of energy used to run the appliances tested. According to § 305.9 of the rule, these average energy costs, which are provided by DOE, will be periodically revised by the Commission, but not more often than annually. Because the costs for the various types of energy change yearly, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%.

The new figures for the estimated annual costs of operation for refrigerators, refrigerator-freezers, and freezers, which were calculated using the 1988 representative average energy costs published by DOE on December 23, 1987,[4] have been submitted and have been analyzed by the Commission. New ranges based upon them are herewith published.

In consideration of the foregoing, the Commission amends Appendices A–1, A–2 and B of its Appliance Labeling Rule by publishing the following ranges of comparability for use in the labeling and advertising of refrigerators, refrigerator-freezers, and freezers beginning August 14, 1989.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Accordingly, 16 CFR Part 305 is amended as follows:

PART 305—[AMENDED]

1. The authority citation for Part 305 continues to read as follows:

Authority: Section 324 of the Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95–619) (1978), the National Appliance Energy Conservation Act, (Pub. L. 100–12) (1987), and the National Appliance Energy Conservation Amendments of 1988, (Pub. L. 100–357) (1988), 42 U.S.C. 6294; section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

2. In Appendices A1, A2 and B, Paragraph 1 of each and the introductory text in Paragraph 2 of each are revised to read as follows:

Appendix A–1—Refrigerators

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Low	High
Less than 2.5	$22	$36
2.5 to 4.4	25	44
4.5 to 6.4	23	49
6.5 to 8.4	29	38
8.5 to 10.4	30	68
10.5 to 12.4	39	50
12.5 to 14.4	40	56
14.5 to 16.4	45	57
16.5 and over	38	92

2. Yearly Cost Information—Electricity

Estimates on the scale are based on a national average electric rate of 8.04¢ per kilowatt hour.

* * * * *

[1] Pub. L. 94–163, 89 Stat. 871 (Dec. 22, 1975).

[2] 44 FR 66466, 16 CFR Part 305 (Nov. 19, 1979).

[3] Reports for refrigerators, refrigerator-freezers and freezers are due by August 1.

[4] 52 FR 48563.

Appendix A–2—Refrigerator-Freezer

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Low	High
Less than 10.5	$36	$72
10.5 to 12.4	57	85
12.5 to 14.4	58	108
14.5 to 16.4	61	115
16.5 to 18.4	62	126
18.5 to 20.4	73	137
20.5 to 22.4	68	145
22.5 to 24.4	69	149
24.5 to 26.4	79	233
26.5 to 28.4	120	152
28.5 and over	96	176

2. Yearly Cost Information—Electricity

Estimates on the scale are based on a national average electric rate of 8.04¢ per kilowatt hour.

* * * * *

Appendix B—Freezers

1. Range Information

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Low	High
Less than 5.5	$24	$52
5.5 to 7.4	26	44
7.5 to 9.4	29	54
9.5 to 11.4	28	82
11.5 to 13.4	33	82
13.5 to 15.4	34	92
15.5 to 17.4	47	111
17.5 to 19.4	49	118
19.5 to 21.4	42	107
21.5 to 23.4	47	88
23.5 to 25.4	81	81
25.5 to 27.4	55	89
27.5 to 29.4	103	103
29.5 and over	136	217

2. Yearly Cost Information—Electricity

Estimates on the scale are based on a national average electric rate of 8.04¢ per kilowatt hour.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89–11733 Filed 5–15–89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 87F-0326]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 3,3'-[(2,5-dimethyl-1,4-phenylene)bis[imino(1-acetyl-2-oxo-2,1-ethanediyl)azo]]bis[4-chloro-*N*-(5-chloro-2-methylphenyl)-benzamide] as a colorant for polymers intended to contact food. This action responds to a petition filed by Ciba-Geigy Corp.

DATES: Effective May 16, 1989; written objections and requests for a hearing by June 15, 1989.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 6, 1987 (52 FR 42728), FDA announced that a petition (FAP 7B4033) had been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.3297 *Colorants for polymers* (21 CFR 178.3297) be amended to provide for the safe use of 3,3'-[(2,5-dimethyl-1,4-phenylene)bis[imino(1-acetyl-2-oxo-2,1-ethanediyl)azo]]bis[4-chloro-*N*-(5-chloro-2-methylphenyl)-benzamide] as a colorant for polymers intended to contact food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that these data and material establish the safety of the level of use of the additive in the manufacture of polymers, and that the regulations should be amended in § 178.3297 as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before June 15, 1989, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784 1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.3297 is amended in paragraph (e) by alphabetically adding a new entry to the table to read as follows:

§ 178.3297 Colorants for polymers.

* * * * *

(e) * * *

Substances	Limitations
3,3'-[(2,5-Dimethyl-1,4-phenylene)bis[imino(1-acetyl-2-oxo-2,1-ethanediyl)azo]]bis[4-chloro-*N*-(5-chloro-2-methylphenyl)-benzamide] (CAS Reg. No. 5280-80-8).	For use at levels not to exceed 1 percent by weight of polymers. The finished articles are to contact food only under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter.

* * * * *

Dated: April 28, 1989.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-11653 Filed 5-15-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T. D. 8255]

RIN 1545-AM45

Reimbursement to State and Local Law Enforcement Agencies

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary Regulations.

SUMMARY: This document contains temporary regulations that provide guidance to State and local law enforcement agencies in applying for reimbursement of expenses incurred in an investigation where resulting information furnished by the agency to the Service substantially contributes to the recovery of Federal taxes with respect to illegal drug or related money laundering activities. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the proposed rules section of this issue of the **Federal Register**.

EFFECTIVE DATE: February 16,1989. These regulations apply to information first provided to the Service by a State or local law enforcement agency after February 16, 1989.

FOR FURTHER INFORMATION CONTACT: Gail M. Winkler of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (202-566-4442, not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to reimbursement of expenses to State and local law enforcement agencies under section 7624 of the Internal Revenue Code of 1986. This provision was added to the Code by section 7602 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, 102 Stat. 4181, 4507-08 (1988)). The temporary regulations added by this document will remain in effect until superseded by later temporary or final regulations relating to these matters or until expiration of 3 years from the date of issuance, whichever occurs first.

Explanation of Provisions

Section 7624 gives the Internal Revenue Service discretion to reimburse a State or local law enforcement agency for expenses incurred in an investigation where resulting information furnished by the agency to the Service substantially contributes to the recovery of Federal taxes with respect to illegal drug or related money laundering activities. The temporary regulations provide that the reimbursement allowable under this provision is limited to 10 percent of the amount recovered for Federal taxes, including additions to tax, and civil penalties, but not interest or criminal fines. However, no reimbursement is allowable with respect to expenses that have been or will be reimbursed from other sources, such as a Federal or State forfeiture program. The temporary regulations also provide that reimbursement will not be paid unless the amount of taxes recovered is at least $50,000. This section applies to State law enforcement agencies including the District of Columbia, and local law enforcement agencies within the states and the District of Columbia.

Whether or not information furnished by a State or local law enforcement agency substantially contributes to the recovery of taxes is necessarily a determination based on facts and circumstances that can be made by the Service only on a case by case basis. Nevertheless, the temporary regulations explain the type of information that the Service will consider as having "substantially contributed" to the collection of additional Federal taxes with respect to illegal drug or related money laundering activities. These rules are intended to provide guidance to law enforcement agencies as to the types of information that the Service generally finds highly useful in developing and prosecuting a Federal tax case involving illegal drug or related money laundering activities.

Thus, as provided in these temporary regulations, where information provided by a State or local law enforcement agency substantially contributes to the collection of at least $50,000 in additional taxes, additions to tax and civil penalties with respect to illegal drug or related money laundering activities, the Service may provide reimbursement for reasonable investigative expenses, not otherwise reimbursed, up to a maximum of 10 percent of the taxes recovered. A special account has been established for this purpose to receive and expend funds.

A State or local law enforcement agency furnishing information to the Service must use Form 211A to apply for reimbursement under this section. An application for reimbursement may be filed with the Service as soon as the agency has made a final determination as to the amount of the expenses incurred and the amount received or to be received from other sources. However, no application will be considered by the Service if filed later than 30 days after the Service has notified the agency of the amount of taxes recovered. If more than one agency files an application for reimbursement with respect to the taxes recovered, the Service will use discretion in allocating the amount of reimbursement to be paid to each agency, but in no event shall the aggregate of amounts paid by the Service exceed 10 percent of the sum of additional Federal taxes recovered.

Section 7809(d) of the Code provides that reimbursement under section 7624 must be paid out of the amounts recovered as a result of information furnished by the State or local law enforcement agency which substantially contributed to the recovery. Congress did not provide for any separate appropriation of Federal funds for this purpose. For this reason, the Service must insure against the possibility of having to refund to the taxpayer amounts collected after these amounts have already been paid to a State or local law enforcement agency as reimbursement. Accordingly, the temporary regulations provide that no reimbursement will be paid before expiration of the period of limitations for filing a claim for refund by the taxpayer or the determination of the taxpayer's liability becomes final. In general, no refund is allowable unless a claim for refund is filed by a taxpayer within 3 years from the time the return is filed or 2 years from the time the tax is paid, whichever is later. However, in many instances this period for filing a

claim for refund will be extended. For example, if a taxpayer enters into an agreement to extend the period of limitations on assessment of tax, the period of limitations on filing a claim for refund is extended for 6 months after expiration of the period of limitations on assessment. Thus, in most cases, the payment of reimbursement under section 7624 would be delayed for a minimum of two years after the information is provided to the Service (i.e., the minimum period within which a refund may be claimed) and in many cases the delay could be much longer. However, an agency that adequately indemnifies the Service against loss due to a refund to the taxpayer of Federal taxes collected may receive reimbursement at an earlier time.

These rules apply to information first provided by a State or local law enforcement agency after February 16, 1989.

Special Analyses

These rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required.

The rules contained in this document are also being issued as proposed regulations by the notice of proposed rulemaking on this subject in the proposed rules section of this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of the rules will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Gail M. Winkler of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, other personnel from the Internal Revenue Service and the Treasury Department participated in their development.

List of Subjects 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Disclosure of information, Employment taxes, Estate tax, Excise taxes, Filing requirements, Gift tax, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority for Part 301 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 301.7624–1T also issued under 26 U.S.C. 7624.

Par. 2. The following new § 301.7624–1T shall be added in the appropriate place.

§ 301.7624–1T Reimbursement to State and local law enforcement agencies (temporary).

(a) *In general.* The Internal Revenue Service may reimburse a State or local law enforcement agency for expenses, such as salaries, overtime pay, per diem, and similar reasonable expenses, incurred in an investigation in which information is furnished to the Service that substantially contributes to the recovery of Federal taxes imposed with respect to illegal drug or related money laundering activities. The amount of reimbursement that may be paid shall not exceed the limits specified in paragraphs (e)(2) and (e)(3) of this section.

(b) *Information that substantially contributes to recovery of taxes*—(1) *Definition.* The Service generally will consider that information furnished by a State or local law enforcement agency substantially contributed to the recovery of taxes with respect to illegal drug or related money laundering activities provided the information was not already in the possession of the Service at the time the information is furnished by the State or local law enforcement agency, and

(i) Concerns a taxpayer who is not under examination or investigation by the Service at the time the information is furnished or has not already been selected by the Service for examination or investigation in the near future, or

(ii) Concerns a taxpayer who is under examination or has been selected for examination at the time the information is furnished but the information furnished would not normally have been discovered in the course of an ordinary investigation or examination by the Service. Also, information will generally be considered as substantially contributing to the recovery of taxes if it leads to the discovery of hidden assets owned by the taxpayer which are used to satisfy the taxpayer's assessed but otherwise uncollectable Federal tax liability with respect to illegal drug or related money laundering activities.

For purposes of this paragraph, information includes, but is not limited to, tax years of violations, aliases, addresses, social security numbers and/or employer identification numbers, financial data (bank accounts, assets, etc.) and their location, and any documentation that substantiates allegations concerning tax liability (books and records) and its location.

(2) Examples.

Example (1). A local police department's narcotics division has been gathering information on a suspected local drug dealer for approximately six months. Because this person is very cautious when handling narcotics, the local police have been unsuccessful in catching this person in possession of drugs. Rather than drop the case, the narcotics detective turns over to the local IRS Criminal Investigation Division (CID) office information concerning this person. At the time the information is furnished, the Service is unaware of this person's suspected involvement in drugs and has no reason to suspect that this person's Federal income tax returns are incorrect. Upon examination of this person's returns for three open years, the Service determines that additional Federal income taxes and civil penalties of approximately $20,000 per year are due because of unreported income from drug dealing. Because the taxpayer was not under examination and was not reasonably anticipated to have been examined prior to receipt of the information, the Service will consider that the information furnished by the local police department substantially contributed to the recovery of approximately $60,000 in taxes with respect to illegal drug activities.

Example (2). Assume the same facts as example (1) except that at the time the information is turned over to the Service, the Service was already aware of the extent of this person's involvement in drug dealing, either through information developed in the course of examinations of other taxpayers or through information received from other sources, and had already selected this person's returns for examination although the person had not yet been contacted by the Service. In this case, the information provided by the local police department did not substantially contribute to the recovery of taxes from this person because the information was already known to the Service.

Example (3). A state or local police officer is conducting ordinary traffic patrol. The officer stops a vehicle for speeding and reckless driving. The officer recognizes the driver as a known narcotics dealer. In the vehicle is a brief case containing $75,000 in cash, but no trace of narcotics is found. The driver claims the cash was won in a high stakes poker game. The officer arrests the driver for traffic violations and takes the briefcase into custody for safe keeping. The local police department cannot seize the money because they cannot tie it to a narcotics transaction. Instead, they immediately inform the local CID office of their find. At the time this information is furnished to the Service, there is an unpaid assessed liability of $300,000 in Federal taxes and penalties owed by the dealer with

respect to illegal drug activities that the Service has been unable to collect. Therefore, the Service immediately seizes the $75,000 in cash in partial payment of the tax liability. The Service will consider that the information furnished by the police department substantially contributed to the recovery of $75,000 in taxes with respect to drug related activities.

Example (4). Through information furnished by a reliable informant, a local police department learns that a known racketeer and suspected drug dealer maintains a second set of books and records in a safe at home. The local police obtain a search warrant and find a set of books revealing that this person has been using a legitimate business operation to launder money derived from both prostitution and drug dealing. At the time these records are turned over to the local CID office, the taxpayer is already under examination for tax evasion. However, based on the information contained in this second set of books, the Service is able to collect additional taxes and civil penalties in the amount of $1 million in connection with these illegal activities. The Service will consider that this information substantially contributed to the recovery of $1 million in taxes with respect to money laundering in connection with illegal drug activities because, even though the taxpayer was already under examination, the information provided by the local police would normally not have been discovered by the Service in the course of an ordinary investigation.

(c) *Application for reimbursement.* An agency that intends to apply for reimbursement under the provisions of this section must indicate this intent to the Service at the time the information is first provided to the Service. A final application for reimbursement of expenses must be submitted on Form 211A, State or Local Law Enforcement Application for Reimbursement, to the Chief, Criminal Investigation Division of the Internal Revenue Service district in which the taxpayer is located. Copies of Forms 9061, DAG–71, or other claim for an equitable share of asset forfeitures in the case must also be furnished with Form 211A.

(d) *Time for filing application for reimbursement.* An application for reimbursement may be filed by an agency at the time the information is first provided or as soon as practicable after submitting information to the Service. However, it must be filed not later than 30 days after the Service notifies the agency pursuant to section 7624(b) of the amount of taxes collected as a result of the information provided. If an application for reimbursement is filed by more than one agency with respect to taxes recovered from a taxpayer, the Service will use discretion in determining an equitable amount of reimbursement allocated to each agency based on all relevant factors. In no event, however, shall the aggregate of the amounts paid by the Service to two or more agencies exceed the amount specified in paragraph (e)(3) of this section.

(e) *Amount and payment of reimbursement*—(1) *De minimis rule.* No reimbursement shall be paid under section 7624 or this section to a State or local law enforcement agency in any case where the taxes recovered total less than $50,000.

(2) *Taxes recovered.* For purposes of section 7624 and this section, the terms "taxes" recovered and "sum" recovered mean additional Federal taxes, civil penalties, and additions to tax collected (less any subsequent refund to the taxpayer) with respect to illegal drug or related money laundering activities, but not additional interest or criminal fines that may be collected.

(3) *Limitation on reimbursement.* The amount of reimbursement payable under section 7624 and this section shall not exceed 10 percent of any taxes recovered.

(4) *No duplicate reimbursement.* A State or local law emforcement agency shall not receive reimbursement under section 7624 or this section for any expenses incurred in the investigation of a taxpayer which have been or will be reimbursed under any other program or arrangement including, but not limited to, Federal or State forfeiture programs, State revenue laws, or Federal and State equitable sharing arrangements.

(5) *Time of payment.* No payment of any reimbursement under this section will be made to a State or local law enforcement agency before the later of final expiration of the applicable period of limitations for filing a claim for refund by the taxpayer of the taxes recovered as provided in subchapter B of chapter 66 of the Code or the determination of the taxpayer's tax liability, as defined in section 1313(a). However, reimbursement may be made earlier but only if the agency provides adequate indemnification against loss by the Service due to a refund to the taxpayer of Federal taxes recovered.

(6) *Applicability.* The provisions of section 7624 apply only to State and local law enforcement agencies within the United States and the District of Columbia.

(f) *Effective date.* This section 7624 applies with respect to information first provided to the Service by a State or local law enforcement agency after February 16, 1989.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: March 16, 1989.

Dennis Earl Ross,

Acting Assistant Secretary of the Treasury.

[FR Doc. 89–11609 Filed 5–15–89; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 301 and 602

[T.D. 8254]

RIN 1545–AM47

Abatement of Penalty or Addition to Tax Attributable to Erroneous Advice

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the abatement of a portion of any penalty or addition to tax attributable to erroneous written advice furnished to a taxpayer by an officer or employee of the Internal Revenue Service, acting in such officer's or employee's official capacity. Changes to the applicable law were made by the Omnibus Taxpayer Bill of Rights provisions of the Technical and Miscellaneous Revenue Act of 1988. The regulations affect all taxpayers, and provide guidance regarding the definition of "advice" and the procedures that must be followed to obtain an abatement. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the Notice of Proposed Rulemaking in the Proposed Rules section of this issue of the **Federal Register**.

EFFECTIVE DATE: The temporary regulations are effective with respect to advice requested on or after January 1, 1989.

FOR FURTHER INFORMATION CONTACT: Stephen J. Toomey of the Office of Assistant Chief Counsel, Income Tax and Accounting, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:CORP:R:T (IA–103–88), (202) 566–6320, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this

reason, the collection of information requirement contained in this regulation has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1545–0024. The time estimates for the reporting and recordkeeping requirements contained in this regulation are included in the burden of Form 843.

For further information concerning the collection of information, where to submit comments on the collection of information, and suggestions for reducing the burden, please refer to the preamble to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register.**

Background

This document contains temporary regulations amending the Procedure and Administration Regulations (26 CFR Part 301) under section 6404 of the Internal Revenue Code of 1986 (Code). The amendments would conform the regulations to section 6229 of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647, 102 Stat. 3342).

In General

Section 6404(f) provides that the Internal Revenue Service shall abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to a taxpayer in writing by an officer or employee of the Service, acting in such officer's or employee's official capacity. The Service will abate a portion of any penalty or addition to tax under section 6404(f) only if (a) the written advice was reasonably relied upon by the taxpayer; (b) the written advice was in response to a specific written request of the taxpayer; and (c) the portion of the penalty or addition to tax did not result from a failure by the taxpayer to provide the Service with adequate or accurate information. Section 6404(f) is effective for advice requested on or after January 1, 1989.

Reliance on Written Advice

The written advice from the Service must have been reasonably relied upon by the taxpayer in order for any penalty to be abated under section 6404(f). Thus, in the case of written advice from the Service that relates to an item included on a federal tax return of a taxpayer, if such advice is received subsequent to the date on which the taxpayer filed such return, the taxpayer did not reasonably rely on the written advice in filing such return. However, if a taxpayer files an amended return that conforms with written advice received from the Service, the taxpayer will be considered to have reasonably relied on the advice for purposes of the position set forth in the amended return. In the case of written advice that does not relate to an item included on a federal tax return (for example, advice relating to the payment of estimated taxes), if such written advice is received by the taxpayer subsequent to the act or omission that is the basis of the penalty or addition to tax, then the taxpayer shall not be considered to have reasonably relied on such written advice.

If the written advice relates to a continuing action or series of actions, the taxpayer may rely on that advice until put on notice that the advice no longer represents Service position and, thus, is no longer valid. Correspondence from the Service to the taxpayer stating that the advice no longer represents Service position is sufficient to put the taxpayer on notice. Further, any of the following events, occurring subsequent to the issuance of advice, that set forth a position contrary to the position of the written advice will serve to put the taxpayer on notice that the advice is no longer valid: (a) Legislation or a tax treaty; (b) a United States Supreme Court decision; (c) temporary or final regulations; and (d) a revenue ruling, a revenue procedure, or other statement published in the Internal Revenue Bulletin.

Definitions

For purposes of section 6404(f) and the temporary regulations thereunder, a written response issued to a taxpayer by an officer or employee of the Service shall constitute "advice" if, and only if, the response applies the tax laws to the specific written facts submitted by the taxpayer and provides a conclusion regarding the tax treatment to be accorded the taxpayer upon the application of the tax laws to those facts. The regulations define the terms "penalty" and "addition to tax" as any liability of a particular taxpayer imposed under Subtitle F, Chapter 68, Subchapter A and Subchapter B of the Internal Revenue Code, and the liabilities imposed by sections 6038(b), 6038(c), 6038A(d), 6038B(b), 6039E(c), and 6332(d)(2). In addition the terms "penalty" and "addition to tax" shall include any liability resulting from the application of other provisions of the Code where the Commissioner of Internal Revenue has designated by regulation, revenue ruling, or other guidance published in the Internal Revenue Bulletin that such provision shall be considered a penalty or addition to tax for purposes of section 6404(f). The terms "penalty" and "addition to tax" shall also include interest imposed with respect to any penalty or addition to tax. The Service welcomes any comments concerning which provisions, if any, not included in the definition of "penalty" and "addition to tax" should be considered a penalty or an addition to tax for purposes of section 6404(f) and the regulations thereunder.

Procedures for Abatement

Section 301.6404–3T(d) provides that taxpayers entitled to an abatement of a penalty or addition to tax pursuant to section 6404(f) should complete and file Form 843. If the erroneous advice received relates to an item on a federal tax return, taxpayers should submit Form 843 to the Internal Revenue Service Center where the return was filed. If the erroneous advice does not relate to an item on a federal tax return, Form 843 should be submitted to the Service Center where the taxpayer's return was filed for the taxable year in which the taxpayer relied on the erroneous advice. Form 843 must be accompanied by copies of: (a) The taxpayer's written request for advice; (b) the erroneous written advice furnished by the Service to the taxpayer and relied on by the taxpayer; and (c) the report (if any) of tax adjustments that identifies the penalty or addition to tax and the item relating to the erroneous written advice.

Period for Requesting Abatement

An abatement of any penalty or addition to tax pursuant to section 6404(f) and § 301.6404–3T shall be allowed only if the request for abatement is submitted within the period allowed for collection of such penalty or addition to tax, or, if the penalty or addition to tax has been paid, the period allowed for claiming a credit or refund of such penalty or addition to tax.

Regulatory Impact Analysis

These proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required.

Issuance of Proposed Regulation and Submission to Small Business Administration

The rules contained in this document are also being issued as proposed regulations by the notice of proposed rulemaking on this subject in the proposed rules section of this issue of the **Federal Register.** Pursuant to section

7805(f) of the Internal Revenue Code, a copy of the rules will be submitted to the Administrator of the Small Business Administration for comment on their impact on small businesses.

Drafting Information

The principal author of these temporary regulations is Stephen J. Toomey of the Office of Assistant Chief Counsel, Income Tax and Accounting, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, on matters of both substance and style.

List of subjects

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Disclosure of information, Employment taxes, Estate tax, Excise taxes, Filing requirements, Gift tax, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 301 and 602 are amended as follows:

Paragraph 1. The authority for Part 301 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * *. Section 301.6404–T is also issued under 26 U.S.C. 6404(f)(3).

Par. 2. The following new section is added immediately following § 301.6403–1 to read as follows:

§ 301.6404–OT Table of contents (temporary).

This section lists the paragraphs contained in §§ 301.6404–1 through 301.6404–3T.

§ 301.6404–1 Abatements.

§ 301.6404–2T Definition of ministerial act (temporary).

(a) In general.
(b) Ministerial act.
(1) Definition.
(2) Examples.
(c) Effective date.

§ 301.6404–3T Abatement of penalty or addition to tax attributable to erroneous written advice of the Internal Revenue Service (temporary).

(a) General rule.
(b) Requirements.
(1) In general.
(2) Advice was reasonably relied upon.
(i) In general.
(ii) Advice relating to a tax return.
(iii) Amended returns.
(iv) Advice not related to a tax return.
(v) Period of reliance.
(3) Advice was in response to written request.
(4) Taxpayer's information must be adequate and accurate.
(c) Definitions.
(1) Advice.
(2) Penalty and addition to tax.
(d) Procedures for abatement.
(e) Period for requesting abatement.
(f) Examples.
(g) Effective date.

Par. 3. The following new section is added immediately following § 301.6404–2T to read as follows:

§ 301.6404–3T Abatement of penalty or addition to tax attributable to erroneous written advice of the Internal Revenue Service (temporary).

(a) *General rule.* Any portion of any penalty or addition to tax that is attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service (Service), acting in his or her official capacity, shall be abated, provided the requirements of paragraph (b) of this section are met.

(b) *Requirements*—(1) *In general.* Paragraph (a) of this section shall apply only if—

(i) The written advice was reasonably relied upon by the taxpayer;

(ii) The advice was issued in response to a specific written request for advice by the taxpayer; and

(iii) The taxpayer requesting advice provided adequate and accurate information.

(2) *Advice was reasonably relied upon*—(i) *In general.* The written advice from the Service must have been reasonably relied upon by the taxpayer in order for any penalty to be abated under paragraph (a) of this section.

(ii) *Advice relating to a tax return.* In the case of written advice from the Service that relates to an item included on a federal tax return of a taxpayer, if such advice is received by the taxpayer subsequent to the date on which the taxpayer filed such return, the taxpayer shall not be considered to have reasonably relied upon such written advice for purposes of this section, except as provided in paragraph (b)(2)(iii) of this section.

(iii) *Amended returns.* If a taxpayer files an amended federal tax return that conforms with written advice received by the taxpayer from the Service, the taxpayer will be considered to have reasonably relied upon the advice for purposes of the position set forth in the amended return.

(iv) *Advice not related to a tax return.* In the case of written advice that does not relate to an item included on a federal tax return (for example, the payment of estimated taxes), if such written advice is received by the taxpayer subsequent to the act or omission of the taxpayer that is the basis for the penalty or addition of tax, then the taxpayer shall not be considered to have reasonably relied upon such written advice for purposes of this section.

(v) *Period of reliance.* If the written advice received by the taxpayer relates to a continuing action or series of actions, the taxpayer may rely on that advice until the taxpayer is put on notice that the advice is no longer consistent with Service position and, thus, no longer valid. For purposes of this section, the taxpayer will be put on notice that written advice is no longer valid if the taxpayer receives correspondence from the Service stating that the advice no longer represents Service position. Further, any of the following events, occurring subsequent to the issuance of the advice, that set forth a position that is inconsistent with the written advice received from the Service shall be deemed to put the taxpayer on notice that the advice is no longer valid—

(A) Enactment of legislation or ratification of a tax treaty;

(B) A decision of the United States Supreme Court;

(C) The issuance of temporary or final regulations; or

(D) The issuance of a revenue ruling, a revenue procedure, or other statement published in the Internal Revenue Bulletin.

(3) *Advice was in response to written request.* No abatement under paragraph (a) of this section shall be allowed unless the penalty or addition to tax is attributable to advice issued in response to a specific written request for advice by the taxpayer. For purposes of the preceding sentence, a written request from a representative of the taxpayer shall be considered a written request by the taxpayer only if—

(i) The taxpayer's representative is an attorney, a certified public accountant, an enrolled agent, an enrolled actuary, or any other person permitted to represent the taxpayer before the Service and who is not disbarred or suspended from practice before the Service; and

(ii) The written request for advice either is accompanied by a power of attorney that is signed by the taxpayer and that authorizes the representative to represent the taxpayer for purposes of

the request, or such a power of attorney is currently on file with the Service.

(4) *Taxpayer's information must be adequate and accurate.* No abatement under paragraph (a) of this section shall be allowed with respect to any portion of any penalty or addition to tax that resulted because the taxpayer requesting the advice did not provide the Service with adequate and accurate information. The Service has no obligation to verify or correct the taxpayer's submitted information.

(c) *Definitions*—(1) *Advice.* For purposes of section 6404(f) and the regulations thereunder, a written response issued to a taxpayer by an officer or employee of the Service shall constitute "advice" if, and only if, the response applies the tax laws to the specific facts submitted in writing by the taxpayer and provides a conclusion regarding the tax treatment to be accorded the taxpayer upon the application of the tax law to those facts.

(2) *Penalty and addition to tax.* For purposes of section 6404(f) and the regulations thereunder, the terms "penalty" and "addition to tax" refer to any liability of a particular taxpayer imposed under Subtitle F, Chapter 68, Subchapter A and Subchapter B of the Internal Revenue Code, and the liabilities imposed by sections 6038(b), 6038(c), 6038A(d), 6038B(b), 6039E(c), and 6332(d)(2). In addition, the terms "penalty" and "addition to tax" shall include any liability resulting from the application of other provisions of the Code where the Commissioner of Internal Revenue has designated by regulation, revenue ruling, or other guidance published in the Internal Revenue Bulletin that such provision shall be considered a penalty or addition to tax for purposes of section 6404(f). The terms "penalty" and "addition to tax" shall also include interest imposed with respect to any penalty or addition to tax.

(d) *Procedures for abatement.* Taxpayers entitled to an abatement of a penalty or addition to tax pursuant to section 6404(f) and this section should complete and file Form 843. If the erroneous advice received relates to an item on a federal tax return, taxpayers should submit Form 843 to the Internal Revenue Service Center where the return was filed. If the advice does not relate to an item on a federal tax return, the taxpayer should submit Form 843 to the Service Center where the taxpayer's return was filed for the taxable year in which the taxpayer relied on the erroneous advice. At the top of Form 843 taxpayers should write, "Abatement of penalty or addition to tax pursuant to section 6404(f)." Further, taxpayers must state on Form 843 whether the penalty or addition to tax has been paid. Taxpayers must submit, with Form 843, copies of the following—

(1) The taxpayer's written request for advice;

(2) The erroneous written advice furnished by the Service to the taxpayer and relied on by the taxpayer; and

(3) The report (if any) of tax adjustments that identifies the penalty or addition to tax and the item relating to the erroneous written advice.

(e) *Period for requesting abatement.* An abatement of any penalty or addition to tax pursuant to section 6404(f) and this section shall be allowed only if the request for abatement described in paragraph (d) of this section is submitted within the period allowed for collection of such penalty or addition to tax, or, if the penalty or addition to tax has been paid, the period allowed for claiming a credit or refund of such penalty or addition to tax.

(f) *Examples.* The following examples illustrate the application of section 6404(f) of the Code and the regulations thereunder:

Example 1. In February 1989, an individual submitted a written request for advice to an Internal Revenue Service Center and included adequate and accurate information to consider the request. The question posed by the taxpayer concerned whether a certain amount was includible in income on the taxpayer's 1989 federal income tax return. An employee of the Service Center issued the taxpayer a written response that concluded that based on the specific facts submitted by the taxpayer, the amount was not includible in income on the taxpayer's 1989 return. Since the response provided a conclusion regarding the tax treatment accorded the taxpayer on the basis of the facts submitted, the response constitutes "advice" for purposes of section 6404(f). The taxpayer filed his 1989 return and, relying on the Service's advice, did not include the item in income. Upon examination, it was determined that the item should have been included in income on the taxpayer's 1989 return. Because the taxpayer reasonably relied upon erroneous written advice from the Service, any penalty or addition to tax attributable to the erroneous advice will be abated by the Service. However, the erroneous advice will not affect the amount of any taxes and interest owed by the taxpayer (except to the extent interest relates to a penalty or addition to tax attributable to the erroneous advice) due to the fact that the item was not included in income.

Example 2. In March 1989, an individual submitted a written request to the National Office of the Internal Revenue Service regarding whether a certain activity constitutes a passive activity within the meaning of section 469 of the Code. The request did not meet the procedural requirements set forth by the National Office for consideration of the submission as a private letter ruling request and, thus, was not treated as such by the Service. The Service furnished the taxpayer with a written response that transmitted various published provisions of section 469 and the regulations thereunder relevant to the determination of whether an activity is passive within the meaning of those provisions. The Service also included a Publication regarding the tax treatment of passive activities. However, the Service's response contained no opinion or determination regarding whether the taxpayer's described activity was or was not passive under section 469. The Service's response is not advice within the meaning of section 6404(f), and cannot be relied upon for purposes of an abatement of a portion of a penalty or addition to tax under that section.

Example 3. On April 1, 1989, an individual submitted a written request for advice to an Internal Revenue Service Center. The advice related to an item included on a federal tax return. The individual filed a federal income tax return with the appropriate Service Center on April 15, 1989. Subsequently, on May 1, 1989, the individual received advice from the Service Center concerning the written request made on April 1. Because the individual filed his tax return prior to the date on which written advice from the Service was received, the individual did not rely on the Service's written advice for purposes of section 6404(f). If, however, the individual amends his tax return to conform with the written advice received from the Service, the individual will be considered to have reasonably relied upon the Service's advice.

Example 4. Individual A, on May 1, 1989, received advice from the Service that concluded that interest paid by the taxpayer with respect to a specific loan was interest paid or accrued in connection with a trade or business, within the meaning of section 163(h)(2)(A) of the Code. The advice relates to a continuing action. Therefore, provided the facts submitted by the taxpayer to obtain the advice remain adequate and accurate (that is, the circumstances relating to the indebtedness do not change), Individual A may rely on the Service's advice for subsequent taxable years until the individual is put on notice that the advice no longer represents Service position and, thus, is no longer valid.

Example 5. An individual, on June 1, 1989, received advice from the Service that concluded that no gain or loss would be recognized with respect to a transfer of property to his spouse under section 1041. The advice does not relate to a continuing action. Therefore, the taxpayer may not rely on the advice of the Service for transfers other than the transfer discussed in the taxpayer's written request for advice.

(g) *Effective date.* Section 6404(f) shall apply with respect to advice requested on or after January 1, 1989.

Par. 4. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 5. Section 602.101 (c) is amended by inserting in the appropriate place in the table:

26 CFR part or section where identified and described	Current OMB control number
§ 301.6404-3T(d)	1545-0024

The provisions contained in this Treasury decision are needed to provide immediate guidance. For this reason, it is found impracticable and contrary to public interest to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Michael J. Murphy,

Acting Commissioner of Internal Revenue

Approved: May 8, 1989.

John G. Wilkins,

Acting Assistant Secretary of the Treasury.

[FR Doc. 89-11611 Filed 5-15-89; 8:45 am]

BILLING CODE 4830-01-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket RM 85-4B]

Registration of Claims to Copyright Registration and Deposit of Databases

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule; correction.

SUMMARY: The Copyright Office is correcting an error in the designation of a subparagraph relating to the deposit requirements for registration of databases which appeared in the Federal Register on March 31, 1989 (54 FR 13177).

EFFECTIVE DATE: March 31, 1989.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20559; (202) 707-8380.

SUPPLEMENTARY INFORMATION: The Copyright Office issued final regulations with respect to registration and deposit of databases, including group registration for a database and its updates, on March 31, 1989 at 54 FR 13177. The references to § 202.20(c)(2)(vii)(B) should have read § 202.20(c)(2)(vii)(D).

Accordingly, the following corrections are made in Docket RM 85-4B, Registration of Claims to Copyright, Registration and Deposit of Databases published in the Federal Register on March 31, 1989 (54 FR 13177):

§ 202.3 [Corrected]

1. The cross-references to § 202.20(c)(2)(vii)(B) in § 202.3(b)(4)(i)(G) on page 13181, second column, line 49, and (4)(ii)(C) on page 13181, third column, line 2, are corrected to read § 202.20(c)(2)(vii)(D).

§ 202.20 [Corrected]

2. Section 202.20(c)(2)(vii)(B) on page 13181, third column, lines 4 and 12 is correctly redesignated § 202.20(c)(2)(vii)(D).

3. In redesignated § 202.20(c)(2)(vii)(D), the cross-references in Clause (3) to (c)(2)(vii)(B), page 13181, third column, line 32 and in Clause (4) to (c)(2)(vii)(B)(5), page 13181, third column, line 43 are corrected to read (c)(2)(vii)(D) and (c)(2)(vii)(D)(5), respectively.

Dated: April 28, 1989.

Ralph Oman,

Register of Copyrights.

[FR Doc. 89-11666 Filed 5-15-89; 8:45 am]

BILLING CODE 1410-07-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[FRL-3550-8]

Approval and Promulgation of Implementation Plans; and Designation of Areas for Air Quality Planning Purposes; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's rulemaking takes final action to approve the Nebraska particulate matter (PM_{10}) State Implementation Plan (SIP) revision and other contemporaneous revisions to the state's air pollution control regulations. This action is in response to a request submitted on June 15, 1988, by the Governor of Nebraska. The PM_{10} SIP submittal requested that EPA redesignate its group II areas as unclassifiable with respect to the total suspended particulates (TSP). As a result of this action, all areas of the state of Nebraska will be unclassifiable or attainment with respect to TSP. Today's action also honors the Governor's request to take no action to make certain air toxics regulations part of the applicable Nebraska SIP. EPA is using the direct-to-final procedure for this rulemaking.

EFFECTIVE DATE: This rulemaking will become effective July 17, 1989, unless someone notifies EPA that they wish to make adverse or critical comments by June 15, 1989. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Documents relevant to this action are available for public inspection at the Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, during normal business hours. Copies are also available during normal business hours at the Nebraska Department of Environmental Control, Air Quality Division, 301 Centennial Mall, P.O. Box 98922, Statehouse Station, Lincoln, Nebraska 68509.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor at (913) 236-2893; FTS 757-2893.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1987, (52 FR 24634), EPA promulgated a new national ambient air quality standard (NAAQS) for particulate matter. The new standard only applies to particles with a nominal aerodynamic diameter of 10 micrometers or less (PM_{10}). The new standard replaces total suspended particulates (TSP) as an ambient air quality standard.

In order for states to regulate PM_{10}, they must make certain changes in their rules and regulations and in the SIPs. The changes to the rules and the SIP must insure that the PM_{10} NAAQS are attained and maintained; that new and modified sources which emit PM_{10} are reviewed; that PM_{10} is one of the pollutants to trigger alert, warning, and emergency actions; and that the states' monitoring network be designed to include PM_{10} monitors. These changes must be made regardless of the existing levels of PM_{10} in any area of the state.

Where preliminary monitoring data indicate that it is likely PM_{10} standards are being exceeded in an area, a control strategy is required to show how PM_{10} emissions will be reduced to provide for attainment and maintenance of the PM_{10} NAAQS. This is called a group I area.

If data show that the PM_{10} standards could possibly be met in an area but there is some uncertainty, the states are required to commit to perform additional PM_{10} monitoring in such an area and to prepare a control strategy if the data show with certainty that the standards are being exceeded. This is called a group II area. The commitments must be submitted in the form of a SIP

revision and are termed a "committal" SIP.

Where available particulate matter data indicate the PM_{10} air quality is better than the standards, EPA presumes that the existing SIP is adequate to demonstrate attainment and maintenance of the PM_{10} standards. This is called a group III area. Preconstruction review and emergency episode provisions are the only PM_{10} rule revisions required for group III areas. The regulations require PM_{10} SIPs to be submitted nine months after the federal PM_{10} regulations became effective on July 31, 1987. However, because of the burdensome administrative requirements for adoption of rules in some states, they were given some flexibility in the scheduling of their PM_{10} SIP submissions.

PM_{10} Attainment Status in Nebraska

Based upon existing TSP and PM_{10} air quality data, there are no areas in Nebraska where the standards are likely to be exceeded (group I) and two areas where the attainment status is uncertain (group II). The group II areas are Omaha and Weeping Water; Louisville and the remainder of the state are group III.

Based upon available PM_{10} data and in accordance with Section 110 of the Clean Air Act and EPA regulations at 52 FR 24672, Nebraska must meet the following requirements for EPA to approve its SIP for PM_{10}: (1) Adopt acceptable revisions to its preconstruction review rules, (2) submit a committal SIP for Omaha and Weeping Water, and (3) revise the emergency episode plans to incorporate PM_{10}. The Nebraska air monitoring SIP is general in that it commits the state to meeting all the monitoring requirements in 40 CFR Part 58, but does not mention specific criteria pollutants. As a result, no change was needed in the Nebraska monitoring SIP to implement new PM_{10} monitoring requirements.

Review of the Nebraska SIP

The Governor of Nebraska submitted the PM_{10} SIP on June 15, 1988. The submittal consists of: (1) Revisions to the Nebraska Air Pollution Control Rules and Regulations, and (2) a committal SIP for Omaha and Weeping Water. In addition to the rule revisions necessary to incorporate PM_{10}, other changes were made in the rules to control toxic pollutants, eliminate and renumber some chapters, change the format and grammar of some rules, and update provisions of the state regulations which adopt EPA regulations by reference. In the submittal letter, the Governor requested that EPA take no action to approve the state's air toxics regulations as part of the Nebraska SIP. EPA is honoring that request.

The state provided evidence of a public hearing and notification that satisfies the requirements of 40 CFR 51.102.

The section of the Nebraska Air Pollution Control rules pertaining to release of emission data to the public was deleted. However, this requirement is covered in the Nebraska Rules of Practice and Procedure, Title 115, which were submitted with the PM_{10} SIP. This is acceptable.

Chapter 19 of the Nebraska Air Pollution Control Rules and Regulations provides authority to obtain information to determine whether sources of air pollution are in compliance with emission limitations. The state is also authorized to require source tests, installation of continuous monitoring systems, maintenance of records, and submission of reports or emission reports.

The state resources needed to implement the PM_{10} SIP are provided for in the annual State/EPA Agreement signed by the Director of the Nebraska Department of Environmental Control and the EPA Region VII Administrator.

The state's committal SIP for Omaha and Weeping Water is contained in a letter dated February 5, 1988, to the EPA Region VII Administrator. This document was presented at the public hearing for comment. The committal SIP contains all the requirements identified in the July 1, 1987, promulgation (52 FR 24681). EPA believes the committal SIP is acceptable and that the state's PM_{10} SIP submittal is complete. Approval of the Nebraska committal SIP sets the attainment date for PM_{10} on July 17, 1992.

Review of PM_{10} Regulatory Revisions

The Nebraska SIP is currently approved as meeting the requirements of 40 CFR Part 51 relating to review of new and modified sources. This includes 40 CFR 51.165, Permit requirements, and 40 CFR 51.166, Prevention of significant deterioration (PSD) of air quality.

The only change required in Nebraska's rules to meet the new PM_{10} requirements of 40 CFR 51.165 was to add a provision providing for offsets where major sources locate in attainment or unclassified areas, but would have a significant impact on an area where air quality standards are being exceeded. This provision is contained in 40 CFR 51.165(b). The state added requirements in Chapter 6 of its air pollution control rules and regulations at 005.02 and 005.03 to satisfy the EPA's requirements. The state rule at 005.02 is consistent with the requirement of 40 CFR 51.165(b)(2) and is approvable. The rule at 005.03 is consistent with the requirement of 40 CFR 51.165(b)(4) and is approvable.

Nebraska adopted by reference 40 CFR 52.21 to satisfy the PSD requirements of 40 CFR 51.166. EPA originally approved the Nebraska PSD SIP revision on July 23, 1984 (49 FR 29597). The state incorporated the July 1, 1987, update of the EPA regulations which includes all the revisions promulgated with the PM_{10} standards' revision.

The state adopted definitions for PM_{10}, PM_{10} emissions, particulate matter, particulate matter emissions, and total suspended particulates. The state's definitions are consistent with EPA's definition of these terms found in 40 CFR 51.100 and are approvable.

Chapter 3 of the Nebraska Air Pollution Control regulations contain the ambient air quality standards for the state of Nebraska. The state added the PM_{10} air quality standard to Chapter 3. The state also retained the particulate matter air quality standard in its rules. The state believes this would provide a stronger legal basis for continuing to enforce particulate matter emission regulations. The state's actions adopting and retaining standards related to PM_{10} and particulate matter are acceptable.

Chapter 23 of the Nebraska Air Pollution Control regulations pertains to emergency episode plans. The state revised Chapter 23 to include PM_{10} and delete references to TSP. These revisions are consistent with 40 CFR Part 51, Appendix L, and are approvable.

The state of Nebraska has adopted all the required regulatory revisions needed to satisfy the PM_{10} SIP requirements of 40 CFR Part 51. The state's PM_{10} SIP revision contains each of the elements required for a PM_{10} SIP revision. Today's action approves the Nebraska PM_{10} SIP revision.

Review of Other Nebraska Rule Revisions

The revised regulations submitted by the Governor contained major and minor revisions; grammatical changes to simplify understanding of the regulations; deletions; and regulations adopted to control emissions of air toxics. Because the Governor's transmittal letter specifically requests that EPA take no action on the rules pertaining to air toxics emissions, discussion of those rules will be limited to identification only. EPA is honoring the request to take no action on the state's air toxics rules.

Chapter 1 contains definitions generally applicable to provisions of the state's regulations. The state revised the definition of allowable emissions by identifying the titles of 40 CFR Part 60 and Part 61. This is approvable. Best Available Control Technology (BACT) was revised to apply to sources of toxic emissions. EPA is not acting on this revision. The state's PSD regulations are EPA's 40 CFR 52.21 adopted by reference. That group of rules contains EPA's BACT definition at 40 CFR 52.21(b)(12) which is applicable to all new source review activities, since there are no nonattainment areas in Nebraska.

Definitions for Chairman, Chief, and Complaint are deleted as unnecessary.

Major modification at 042 is revised to reference EPA's recodification of its SIP regulations in 40 CFR Part 51 on November 7, 1986, and some minor corrections. This is acceptable.

The state's definition of volatile organic compound is revised to remove any reference to vapor pressure. This is approvable.

Definitions pertaining to the state's stack height regulation are acted on in a separate rulemaking and will not be discussed here, except that these definitions are renumbered.

Chapter 2 of the state's rules identifies air quality control regions in the state consistently with EPA's designations.

The revisions in Chapter 3 pertaining to PM_{10} are discussed above. However, the NAAQS for hydrocarbons is deleted and the NAAQS for lead is added. This is acceptable.

Chapter 4 contains reporting and operating permit requirements. Among the revisions in this chapter is added applicability to sources of ten tons per year of PM_{10} emissions. No action is taken on 004.O1G pertaining to sources of air toxics emissions except as it pertains to lead emissions. Appendix III contains a list of substances the state defines as air toxics. EPA can only approve 004.O1G as it applies to lead.

Chapter 5 contains the state's stack height regulations. These regulations were approved in a separate rulemaking on February 16, 1989 (54 FR 7036).

Chapter 6 contains requirements for new, modified, or reconstructed sources. New source performance standards (NSPS) sources are identified in 001. This list has been modified to identify the appropriate subpart of 40 CFR Part 60. EPA does not act on state NSPS regulations as a SIP revision. This authority is delegated to the states. Thus, EPA is not approving section 001 of Chapter 6 as part of the Nebraska SIP.

Activities requiring permit applications under Chapter 6 are identified in Section 002. New subsection 002.04 is added requiring applications for air toxics sources. EPA is acting on this requirement only insofar as it pertains to lead.

The revisions of section 005 that pertain to PM_{10} are discussed above.

Section 007 in Chapter 6 pertains to air toxics. At the request of the state, EPA is taking no action on this section.

Chapter 7 contains requirements for sources subject to the PSD review. Nebraska's PSD rules were approved by EPA on July 24, 1984 (49 FR 29599). The PSD updates pertaining to PM_{10} are discussed above. Other revisions include corrections of the previously approved regulations, minor revisions which reference EPA's recodification of 40 CFR Part 51, and minor revisions having no effect on the approvability of the Nebraska PSD regulations. Included in the referenced regulations is EPA's BACT definition which is applicable in all areas of the state. This chapter remains approvable.

The requirements of Chapters 8, 9, 10, and 11 are presently part of the approved Nebraska SIP and are unchanged.

Chapter 12 adopts EPA's National Emission Standard for Hazardous Air Pollutants in 40 CFR Part 61 by reference. The citation in the revision updates the citation to July 1, 1987. EPA does not act on state NESHAP regulations as a SIP revision. This authority is delegated to the states. Thus, EPA is not approving Chapter 12 as part of the Nebraska SIP.

Chapter 13 contains sulfur compound emission limits for existing sources. This chapter is revised by deleting section 003. That section was applicable to existing sources other than fuel-burning equipment in existence during calendar year 1971. The state certifies that sources which would be subject to that provision are no longer in existence. New sources would be subject to NSPS and/or PSD. The types of sources would include lime kilns, cement kilns, and petroleum refineries. This is acceptable.

Minor wording changes were made in Chapter 14 pertaining to nitrogen oxides emissions without changing its approvability. This chapter is currently part of the approved SIP.

Chapter 15 pertaining to open burning is unchanged. Chapter 16 is deleted as unnecessary. Old Chapter 16 made the property owner responsible for any open fires found on that property.

New Chapter 16 is the former Chapter 17 renumbered and contains visible emission limitations for existing sources. This regulation is revised specifying Method 9 of 40 CFR Part 60, Appendix A, as the compliance determination method. This is approvable.

Chapter 17 requires controls to prevent fugitive dust escaping the premises. This rule is currently part of the approved Nebraska SIP.

Chapter 18 contains time schedules for compliance of sources not subject to other schedules under new source review or PSD regulations. This chapter conforms with Nebraska statutory requirements for variances. It identifies what must be included in a variance request. The chapter is revised by deleting references to 1975 and 1976 compliance dates mandated by the 1970 Clean Air Act. This is acceptable.

Chapter 19 contains emission-testing requirements. It is revised by updating references to EPA's testing methods. This is acceptable.

Chapter 20 contains the state's malfunction regulations. These regulations were approved as part of the Nebraska SIP on March 28, 1983 (48 FR 12718). Circumvention of emission limit requirements is prohibited by Chapter 21.

Chapter 22 disallows claims of exemption from any regulation relating to emission limits because of plan reviews by the state. This regulation is currently part of the approved Nebraska SIP.

Chapter 23 provides for emergency episode plans. As discussed above, this chapter is revised to be consistent with the revised PM_{10} standard. Appendix I is a companion to Chapter 23 and identifies steps to reduce public exposure in the event an emergency episode occurs.

Chapter 24 relates to visible emissions from diesel-powered motor vehicles. This chapter is currently part of the Nebraska SIP.

Chapter 25 provides for noncompliance penalties and enforcement actions. Chapter 26 pertains to severability. These chapters are part of the approved SIP.

Chapter 27 provides for appeals. Chapter 28 provides for amendment or repeal of the state air pollution control regulations. Chapter 29 establishes an effective date for new or revised regulations and repeal of inconsistent or conflicting rules. These last three regulations are currently part of the approved Nebraska SIP.

Appendix III contains a list of substances the state of Nebraska considers toxic for the purposes of its air toxics emission regulations. With the exception of lead, EPA is not approving this list as part of the Nebraska SIP. As stated above, the Governor of Nebraska requested EPA not to make the air

toxics regulations part of the approved Nebraska SIP.

Action

A. EPA approves the revised Nebraska PM_{10} SIP regulations submitted by the Governor on June 15, 1988. These revisions are as follows:

1. Chapter 1, Definitions: *055* PM_{10}; *057* Particulate matter emissions; and *058* PM_{10} emissions.
2. Chapter 3: Ambient air quality standards.
3. Chapter 6: New source review requirements at *005.02* and *005.03*.
4. Chapter 7: PSD requirements.
5. Chapter 23: Revised emergency episode plan.

B. EPA approves the remaining revisions to Title 129 Nebraska Air Pollution Control Rules and Regulations, *except* for those revisions pertaining to the control of toxic air contaminants. No action is taken (as requested by the Governor) on the following revisions:

1. Chapter 1 definition at *013* "Best Available Control Technology";
2. Chapter 4, section *004.01G* except as it applies to lead emissions;
3. Chapter 6, section *002.04* and section *007;* and
4. Appendix III except for lead.

In addition to the air toxics provisions cited above, EPA is not acting on Chapter 6, section 001 pertaining to NSPS and Chapter 12 pertaining to NESHAP.

Area Redesignations

The final rulemaking promulgating EPA's PM_{10} SIP requirements published on July 1, 1987 (52 FR 24682) discussed an Area Designation Policy with respect to TSP. The EPA encouraged states to submit requests to redesignate TSP nonattainment areas to unclassifiable for TSP at the time the PM_{10} control strategy for the area is submitted. The rulemaking stated that when EPA approves the control strategy as sufficient to attain and maintain the PM_{10} NAAQS, it will also approve the redesignation. An area designation for TSP must be retained until EPA promulgates PM_{10} increments, because the Section 163 PSD increments depend upon the existence of Section 107 designations. Section 107 does not provide for PM_{10} area designations; thus, TSP area designations are retained until such time as there is a provision for PM_{10} designations.

The state of Nebraska requested TSP redesignations to unclassifiable for Omaha, Weeping Water, and Louisville in its February 5, 1988, committal SIP. The request calls for redesignating Omaha and Weeping Water from secondary nonattainment for TSP to unclassifiable, and Louisville from primary nonattainment to unclassifiable. EPA agrees with the Nebraska redesignation request.

Action

EPA approves Nebraska's request to redesignate Omaha and Weeping Water from secondary nonattainment with respect to TSP to unclassifiable for TSP. Louisville is redesignated unclassifiable for TSP from primary nonattainment.

The public should be advised that this action will be effective July 17, 1989. However, if notice is received within 30 days that someone wishes to make adverse or critical comments, this action will be withdrawn and two subsequent notices will be published prior to the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of action and establishing a comment period.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that this rulemaking will not have a significant impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Act, as amended, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Air pollution control, Incorporation by reference, Particulate matter, and Sulfur oxides.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7642.

Note: Incorporation by reference of the State Implementation Plan for the state of Nebraska was approved by the Director of the **Federal Register** on July 1, 1982.

Date: March 28, 1989.

Morris Kay,

Regional Administrator.

PART 52—[AMENDED]

40 CFR Part 52 is amended as follows:

Subpart CC—Nebraska

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1420 is amended by adding paragraph (c)(37) to read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

(37) Revised Title 129 of Nebraska Air Pollution Control rules and regulations pertaining to PM_{10} and other rule revisions submitted by the Governor of Nebraska on June 15, 1988.

(i) Incorporation by reference. (A) Nebraska Department of Environmental Control Title 129—Nebraska Air Pollution Control rules and regulations adopted by the Nebraska Environmental Control Council February 5, 1988, effective June 5, 1988. The following Nebraska rules are not approved: Chapter 1, definition at *013,* "Best Available Control Technology"; Chapter 4, section *004.01G,* except as it applies to lead; Chapter 6, section *002.04* and section 007; Appendix III except for lead; Chapter 6, section *001* pertaining to NSPS; and Chapter 12 pertaining to NESHAP.

(B) Nebraska Department of Environmental Control Title 115—Rules of Practice and Procedure, amended effective July 24, 1987.

(ii) Additional information. (A) None.

3. The table in § 52.1431, is revised to read as follows:

§ 52.143 Attainment dates for national standards.

* * * * *

Air quality control region	Pollutant								
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Photochemical oxidants (hydrocarbons)	Lead	PM_{10}
	Primary	Secondary	Primary	Secondary					
Metropolitan Omaha-Council Bluffs Interstate.	d	d	b	a	c	c	c	e	f
Lincoln-Beatrice-Fairbury Interstate	b	a	c	c	c	c	c	c	c
Metropolitan Sioux City Interstate	c	c	c	c	c	c	c	c	c
Nebraska Intrastate	d	d	c	c	c	c	c	c	f

NOTE: 1: dates or footnotes which are italicized are prescribed by the Administrator because the plan does not provide a specific date.
a. July 1975.
b. Air quality levels presently below primary standards.
c. Air quality levels presently below secondary standards.
d. December 31, 1987.
e. February 1, 1988.
f. (three years from effective date of rulemaking)

NOTE: 2: Sources subject to plan requirements and attainment dates establishes under Section 110(a)(2)(A) of the Act prior to the 1977 Clean Air Act amendments remain obligated to comply with these requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.1431.
Only portions of those AQCRs with attainment dates after July 1975 have new attainment dates under the 1977 Clean Air Act Amendments. The reader is referred to 40 CFR Part 81 for idenfitication of the designated areas under section 107(d) of the Act.

4. A new § 52.1423 is added as follows:

§ 52.1423 PM_{10} State implementation plan development in group II areas.

The state of Nebraska committed to conform to the PM_{10} regulations as set forth in 40 CFR Part 51. In a letter to Morris Kay, EPA, dated February 5, 1988, Mr. Dennis Grams, Director, Nebraska Department of Environmental Control, stated:

(a) An area in the City of Omaha and the area in and around the Village of Weeping Water have been classified as Group II areas for the purpose of PM_{10} State Implementation Plan (SIP) development. The specific boundaries of these areas are identified in our letter of October 6, 1987, to Carl Walter. In accordance with the requirements for PM_{10} SIP development, the State of Nebraska commits to perform the following PM_{10} monitoring and SIP development activities for these Group II areas:

(1) Gather ambient PM_{10} data, at least to the extent consistent with minimum EPA requirements and guidance.

(2) Analyze and verify the ambient PM_{10} data and report 24-hour exceedances of the National Ambient Air Quality Standard for PM_{10} to the Regional Office within 45 days of each exceedance.

(3) When an appropriate number of verifiable exceedances of the 24-hour standard occur, calculated according to section 2.0 of the PM_{10} SIP Development Guideline, or when an exceedance of the annual PM_{10} standard occurs, acknowledge that a nonattainment problem exists and immediately notify the Regional Office.

(4) Within 30 days of the notification referred to in paragraph (a)(3) of this section, or within 37 months of promulgation of the PM_{10} standards, whichever comes first, determine whether measures in the existing SIP will assure timely attainment and maintenance of the PM_{10} standards and immediately notify the Regional Office.

(5) Within 6 months of the notification referred to in paragraph (a)(4) of this section, adopt and submit to EPA a PM_{10} control strategy that assures attainment as expeditiously as practicable but no later than 3 years from approval of the committal SIP.

An emission inventory will be compiled for the identified Group II areas. If either area is found to be violating the PM_{10} standards, the inventory will be completed as part of the PM_{10} SIP for that area on a schedule consistent with that outlined in paragraphs 3, 4, and 5. If the PM_{10} standards are not violated, the inventory will be completed not later than July 1, 1989, and submitted to EPA not later than August 31, 1990, as part of the determination of adequacy of the current SIP to attain and maintain the PM_{10} air quality standards.

(b) We request that the total suspended particulate nonattainment areas in Omaha and Weeping Water (all secondary nonattainment) and Louisville (Primary nonattainment) be redesignated to unclassifiable.

PART 81—[AMENDED]

40 CFR Part 81, Subpart C, is amended as follows:

Subpart C—Nebraska

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 81.328 is amended by revising the attainment status designation table for TSP to read as follows:

§ 81.328 Nebraska.

NEBRASKA TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 085 (Douglas and Sarpy Counties):				
Douglas County:.				
Omaha			X	
Remainder of Douglas County.				X
Sarpy County:				
Bellevue			X	
Remainder of Sarpy County.				X
AQCR 086			[1] X	
AQCR 145				X
AQCR 146:				
Cass County			X	
Dawson County.			[1] X	
Remainder of AQCR 146.				X

[1] EPA designation replaces state designation.

* * * * *

[FR Doc. 89–11608 Filed 5–15–89; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Parts 796 and 798

[OPTS-46104B; FRL-3572-1]

Toxic Substances Control Act Test Guidelines; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendments.

SUMMARY: This document reinstates in the Code of Federal Regulations various changes that were inadvertently omitted from toxic substances test guidelines published in the **Federal Register** of September 27, 1985 (40 FR 39252), but which were carried in the Code of Federal Regulations (CFR) for 1986 and 1987 and were removed by an Office of the Federal Register (OFR) correction published in the **Federal Register** of December 20, 1988 (53 FR 51099). As this document merely reinstates amendments to guidelines that impose no regulatory burden, advance notice and public comment are unnecessary and this document becomes effective on publication.

EFFECTIVE DATE: May 16, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. EB-44, 401 M St., SW., Washington, DC 20460, (202)-554-1404, TDD: (202)-554-0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 27, 1985 (50 FR 39252), EPA added toxic substances test guidelines in 40 CFR Parts 796, 797, and 798. The document EPA submitted to OFR for publication inadvertently omitted changes in 40 CFR Parts 796 and 798 that were made during the numerous in-house revision cycles. These changes were not made in the final rule published in the **Federal Register**, but were apparently nevertheless incorporated in the Code of Federal Regulations (CFR) issued in 1986. Therefore, there are discrepancies between the toxic substances test guidelines in 40 CFR Parts 796 and 798 published in the **Federal Register** of September 27, 1985, and those codified in the CFR's of 1986 and 1987.

As the original September 27, 1985 daily issue publication is the controlling version, OFR issued a correction document, published in the **Federal Register** of December 20, 1988 (53 FR 51099), that conforms the CFR to the September 27, 1985 **Federal Register** final rule. EPA is issuing these technical amendments to 40 CFR Parts 796 and 798 because most of the changes that were inadvertently omitted from the **Federal Register** final rule of September 27, 1985 were intended and should be reinstated in the CFR.

Codification of these technical amendments to guidelines does not impose any regulatory obligation on any person who may be subject to the Toxic Substances Control Act (TSCA) section 4 test rule. Specific guidelines do not become mandatory test standards until they are promulgated as such in individual section 4 rulemakings. When promulgated in such test rules, the pertinent TSCA guidelines become test standards for only that particular section 4 rule and do not serve as generic test standards. EPA may propose modifications to the various guidelines as they are utilized for chemical-specific test rules. In each chemical-specific rule, the proposed test standards and any modification will be subject to public comment.

List of Subjects in 40 CFR Parts 796 and 798

Testing, Environmental protection, Chemical fate, Environmental effects, Chemicals.

Dated: May 8, 1989.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 796—[AMENDED]

1. In Part 796:

a. The authority citation for Part 796 continues to read as follows:

Authority: 15 U.S.C. 2603.

§ 796.3140 [Amended]

b. In § 796.3140 *Anaerobic biodegradability of organic chemicals*, in paragraph (b)(2)(i)(C) in the first sentence add "are" after "components" and before "added."

PART 798—[AMENDED]

2. In Part 798:

a. The authority citation for Part 798 continues to read as follows:

Authority: 15 U.S.C. 2603.

§ 798.1150 [Amended]

b. In § 798.1150 *Acute inhalation toxicity*, in paragraph (f)(8) change "food" to "feed" in the two places it appears.

§ 798.1175 [Amended]

c. In § 798.1175 *Acute oral toxicity*, in paragraphs (f)(6) (ii) and (iii) change "food" to "feed."

§ 798.2250 [Amended]

d. In § 798.2250 *Dermal toxicity*, in paragraphs (e)(9)(v) and (f)(3)(ii)(D) change "food" to "feed."

§ 798.2450 [Amended]

e. In § 798.2450 *Inhalation toxicity*, in paragraph (d)(9) in the two places it appears, in paragraph (d)(10)(v), and in paragraph (e)(3)(iv)(D), change "food" to "feed"; and in paragraph (d)(11)(ii)(B) change the phrase "expected or observed toxicity" to "expected and/or observed toxicity."

§ 798.2650 [Amended]

f. In § 798.2650 *Oral toxicity*, in paragraphs (e)(8)(v) and (f)(3)(ii)(D) change "food" to "feed"; in paragraph (e)(10)(iii) delete the period at the end of the paragraph and add "; and (rodent-zymbal glands)."

§ 798.2675 [Amended]

g. In § 798.2675 *Oral toxicity with satellite reproduction and fertility study*, in paragraphs (e)(8)(v) and (f)(3)(ii)(D), change "food" to "feed" and in paragraph (e)(9)(ii)(B) change the phrase "expect or observed activity" to "expected and/or observed activity."

§ 798.3260 [Amended]

h. In § 798.3260 *Chronic toxicity*, in paragraph (b)(6)(iii)(C), in paragraph (b)(7)(vi) in the two places it appears, and in paragraph (c)(3)(i)(B)(*4*) change "food" to "feed."

§ 798.3300 [Amended]

i. In § 798.3300 *Oncogenicity*, in paragraph (b)(6)(iii)(C), in paragraph (b)(7)(v) in the two places it appears, and in paragraph (c)(3)(i)(B)(*4*) change "food" to "feed"; also, make the following correction: In paragraph (d)(8) add "*of*" after "Journal."

§ 798.3320 [Amended]

j. In § 798.3320 *Combined chronic toxicity/oncogenicity*, in paragraphs (b)(6)(iii)(C), in paragraph (b)(7)(v) in the two places it appears, and in paragraph (c)(3)(i)(B)(*4*), change "food" to "feed"; and in paragraph (b)(6)(iii)(A) in the first sentence insert "to" after "per hour," and before "ensure."

§ 798.4350 [Amended]

k. In § 798.4350 *Inhalation developmental toxicity study*, in paragraph (f)(3)(iii)(E) change "food" to "feed."

§ 798.7100 [Amended]

1. In § 798.7100 *Metabolism*:

i. In paragraph (c)(1)(i) in the next-to-last sentence, change "in several species" to "in more than one species";

ii. In paragraph (c)(2)(ii), change "no-effect-level" to "no-observable-effect level";

iii. In paragraph (c)(2)(iv), change "single or repeated doses" to "single and repeated doses";

iv. In paragraphs (c)(3) and (c)(5)(iii), change "95 percent" to "90 percent";

v. In paragraphs (c)(5)(iii) and (c)(5)(iv)(A), change "i.e.," to "e.g.,";

vi. In paragraph (c)(5)(iv)(A), in the first sentence remove "1.5" and delete

the last sentence, "In the dog, quantities of label in urine and feces should be measured at appropriate intervals (i.e., every 6 hours for the first 48 hours after dosing and every 12 hours for the remaining 5 days) throughout the study for all animals."; and

vii. In paragraph (e), the words "the rat and dog" are deleted and the words "those employed may" are added in their place.

[FR Doc. 89-11694 Filed 5-15-89; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400 and 433

[OBA-15-F]

RIN 0938-AE31

Medicare and Medicaid; Approved Information Collection Requirements and Federal Medical Assistance Percentage Computation

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule and technical correction.

SUMMARY: This final rule amends a general HCFA regulation to display up-to-date control numbers assigned by the Office of Management and Budget (OMB) to approved "collection of information" requirements contained in regulations governing the Medicare and Medicaid programs. This rule is issued in accordance with OMB regulations for controlling paperwork burdens on the public and serves as notice that the cited collections of information are approved. This document also correctly displays our longstanding formula for computing the State share of the Federal Medical Assistance Percentage (FMAP). Section 433.10(b) of our regulations contains a typographical error.

EFFECTIVE DATE: These regulations are effective May 16, 1989.

FOR FURTHER INFORMATION CONTACT: Maxine Turnipseed, (301) 966-1981. (For information collection requirements.)

Matt Plonski, (301) 966-4662. (For FMAP correction.)

SUPPLEMENTARY INFORMATION:

I. Background

Information Collection Requirements

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), Federal agencies are required to obtain Office of Management and Budget (OMB) approval of "collection of information" requirements that are contained in any regulations published by the agencies. To implement provisions of this act, OMB has established regulations under Part 1320 of Title 5 of the Code of Federal Regulations (CFR). The OMB regulations require Federal agencies (1) to notify the public that a collection of information requirement has been approved by OMB by issuing a notice in the **Federal Register**, and (2) to display the control number assigned by OMB after approval of the requirement, as part of the agency's regulatory text.

To comply with the OMB requirement that HCFA include in its regulations the OMB control numbers assigned, we have established a general regulation under 42 CFR 400.310 to display valid OMB control numbers and applicable regulation sections as a means of notifying the public that the information collection requirements have been approved. We update this regulation routinely to add the most recent OMB control numbers or to delete entries no longer in effect.

Federal Medical Assistance Percentage

The Medicaid program, established under Title XIX of the Social Security Act (the Act), is a State administrated program that provides medical assistance to certain needy individuals. Funding is shared between the States and the Federal Government. Under the Medicaid program, the term "medical assistance" means payment of part or all of the cost of care and services provided to a beneficiary under a HCFA approved State plan. The portion of the medical assistance expenditures that the Federal Government provides to the States to cover their expenditures is called the Federal Medical Assistance Percentage (FMAP). The FMAP cannot be less than 50 percent nor more than 83 percent for any State. Each State's percentage is determined by the formula described in section 1905(b) of the Act and shown in our regulations at 42 CFR 433.10(b). Under that formula the State whose per capita income exceeds that of the national per capita income would receive a lower share from the Federal Government. Also, the State whose per capita income is lower than the national average would receive a higher share from the Federal Government. The Federal Government share would be within the statutory 50-83 percentage limits.

Although section 1905(b) of the Act clearly indicates the formula and ratio relationships to be used to calculate FMAP, the formula in our regulations at § 433.10(b) is incorrectly presented.

II. Provisions of These Regulations

Information Collection Requirements

Before May 2, 1983 there was no requirement to publish OMB control numbers in agency regulations. Under 5 CFR 1320.2, we submit for OMB approval information collection requirements that we identify in existing regulations either because they have not been previously approved or because a prior approval has expired. After the approval is obtained, we publish in the **Federal Register** the control numbers for the sections approved or reapproved. In this manner, we expect to eventually publish control numbers for all our regulation sections that have OMB approved information collection requirements, and also to update reapproved items. We have identified a number of items for inclusion in our table at § 400.310 based on an OMB approval action. (Ordinarily a reapproval item retains its original control number and will not be reprinted in § 400.310. This is not always the case and some of our information collections have been assigned more than one control number.)

In the preamble of final rules containing information collection requirements, we identify sections of the regulations for which we have requested assignment of an OMB control number. Control numbers have been assigned for the following documents published in the **Federal Register**:

Peer Review Organization Contracts Solicitation of Statements of Interest From In-State Organizations (53 FR 7976, March 11, 1988) (42 CFR 462.102 and 462.103).

Conditions for Intermediate Care Facilities for the Mentally Retarded (53 FR 20448, June 3, 1988) (42 CFR 483.410, 483.420, 483.440, 483.450, 483.460, 483.470).

Technical Correction

We are revising § 433.10(b), Rates of FFP for program services, to correct typographical errors by amending the State share formula so it conforms to the formula described in section 1905(b) of the Act. We inadvertently omitted the division sign "/" and failed to include the brackets that are used to indicate the computation within the formula.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

This regulation and technical correction merely update our display of OMB control numbers for approved collection of information requirements contained in HCFA regulations and correct an obvious typographical error

in existing regulation text. The Department routinely publishes a notice in the **Federal Register** when an information collection requirements clearance request identified in a rule or notice is submitted to OMB, and the public is offered an opportunity to comment. With respect to the typographical error, this rule repeats the formula contained in statute, without interpretation. To publish either in proposed form is unnecessary and serves no useful purpose. Therefore, we find good cause to waive notice of proposed rulemaking.

We are publishing this final rule without the usual 30-day delay in effective date. We consider the updating of the chart found at § 400.310 to be technical in nature. As noted above, the public is informed of the requirements and advised that formal notice will be made of the approval. Since the rule is technical in nature, we believe it is unnecessary and would serve no useful purpose to delay the effective date beyond the date of publication. Therefore, we find good cause to waive a delay in effective date.

IV. Impact Analysis

As noted above, this regulation is technical in nature and merely updates the display of OMB control numbers of approved collection of information requirements contained in HCFA regulations and corrects a typographical error. Therefore, the Secretary has determined that this document does not meet criteria for a major rule as defined in section 1(b) of Executive Order 12291. The Secretary also certifies, consistent with the Regulatory Flexibility Act, that this document would not have a significant economic impact on a substantial number of small entities. In addition, we are not preparing a rural impact as required by section 1102(b) of the Act since we have determined, and the Secretary certifies that this rule will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

V. List of Subjects

42 CFR Part 400

Grant program-health, Health facilities, Health maintenance organizations (HMO), Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 433

Administrative practice and procedure, Child support, Claims, Grant program-health, Medicaid, Reporting and recordkeeping requirements.

A. 42 CFR Part 400 is amended as follows:

PART 400—INTRODUCTION: DEFINITIONS

1. The authority citation for Part 400 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 44 U.S.C. Chapter 35.

2. Section 400.310 is amended to insert in numerical order additional entries as follows:

§ 400.310 Display of currently valid OMB control numbers.

Sections in 42 CFR that contain collections of information	Current OMB control no.
* * * * *	*
403.334	0938-0465
* * * *	*
405.1316	0938-0527
* * * *	*
405.2112, 405.2123, 405.2134, 405.2136, 405.2137, 402.2138, 405.2139, 405.2140, 405.2171	0938-0386
* * * *	*
413.506	0938-0482
* * * *	*
441.16	0938-0527
* * * *	*
442.114, 442.115, 442.116	0938-0521
* * * *	*
447.253	0938-0523
* * * *	*
462.102, 462.103	0938-0526
* * * *	*
483.410, 483.420, 483.440, 483.450, 483.460, 483.470	0938-0366
* * * *	*

B. 42 CFR Part 433 is amended as follows:

PART 433—STATE FISCAL ADMINISTRATION

1. The authority citation for Part 433 continues to read as follows:

Authority: Secs. 1102, 1137, 1902(a)(4), 1902(a)(25), 1902(a)(45), 1903(a)(3), 1903(d)(2), 1903(d)(5), 1903(o), 1903(p), 1903(r) and 1912 of the Social Security Act; 42 U.S.C. 1302, 1320b-7, 1396a(a)(4), 1396a(a)(25), 1396a(a)(45), 1396b(a)(3), 1396b(d)(2), 1396b(d)(5), 1396b(o), 1396b(p), 1396b(r) and 1396k, unless otherwise noted.

2. Section 433.10 is amended by revising the formula for State share in paragraph (b) to read as follows:

§ 433.10 Rates of FFP for program services.

* * * * *

(b) Federal medical assistance percentage (FMAP)—Computations.

* * * * *

State Share = [(State per capita income) ^{2}/(National per capita income) ^{2}] × 45 percent

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Programs; No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: March 2, 1989.

Terry Coleman,

Acting Administrator, Health Care Financing Administration.

Approved: April 10, 1989.

Louis W. Sullivan,

Secretary.

[FR Doc. 89-11677 Filed 5-15-89; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 3, 37, and 52

[Federal Acquisition Circular 84-47)

Federal Acquisition Regulation (FAR); Procurement Integrity; Correction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment; correction.

SUMMARY: This document corrects FAR 3.104-12, 37.208, and 52.237-9, and revises the FAC Item description in Federal Acquisition Circular (FAC) 84-47 published in the **Federal Register** on Thursday, May 11, 1989 (54 FR 20488).

SUPPLEMENTARY INFORMATION: In FR Doc. 89-11472 beginning on page 20488, in the third column of page 20490, the second paragraph of the FAC Item description, Procurement Integrity, has been revised, and a new third paragraph has been added. However, for the convenience of the reader, the FAC Item is set out in its entirety. In addition to the FAC Item corrections, make the regulatory corrections in 3.104-6, 3.104-12, 37.208, and 52.237-9 to read as follows:

Item-Procurement Integrity

FAR 1.105 is revised, and 3.104 and 3.104-1 through 3.104-12, 4.802(e), 9.105-3(c), 9.106-3(b), 15.805-5 (l) and (m), 37.207(f), 37.208, 43.106, and the provision and clauses at 52.203-8,

52.203-9, and 52.237-9 are added to implement the procurement integrity requirements of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423). This rule prohibits the following activities by competing contractors and Government procurement officials during the conduct of a Federal agency procurement: (a) soliciting or discussing post-Government employment; (b) offering or accepting a gratuity; and (c) soliciting or disclosing proprietary or source selection information. In addition, the rule provides for certification and disclosure provisions applicable to Government contractors and Government officials, imposes post employment restrictions on Government officials and employees, and provides for criminal, civil, contractual, and administrative penalties for violations of the Act.

If the date set for bid opening, receipt of proposals, or best and final offers is before May 16, 1989, and award will not be made before May 16, 1989, the clauses at 52.203-9 and 52.203-10 are not required to be included in any resulting contract. However, the certificates at 3.104-9 and 52.203-8 must be obtained prior to contract award.

If the date set for bid opening, receipt of proposals, or best and final offers is on or after May 16, 1989, the solicitation shall be amended to include all applicable provisions and clauses of this interim rule.

Modifications as defined in 3.104-4(e) that have not been executed by May 15, 1989, shall also be amended.

3.104-6 [Corrected]

1. On page 20491, in the table of contents in the first column and on page 20493 in the third column the section title in both places should read "Restrictions on Government officials, employees, and contractors serving as procurement officials"; and in the fourth sentence of paragraph (a) the word "consultants" is removed and "contractors" is inserted in its place.

3.104-12 [Corrected]

2. On page 20496, in the third column, in 3.104-12(b), the first word "Consultants" should read "Contractors".

37.208 [Corrected]

3. On page 20497, in the first column, in 37.208, remove in the title of the clause the words "—Advisory and Assistance Services" and in the remainder of the sentence the words "advisory and assistance".

52.237-9 [Corrected]

4. On page 20499, in the first column, in 52.237-9, remove in the section title "—Advisory and Assistance Services" and in the clause title "—ADVISORY AND ASSISTANCE SERVICES".

Dated: May 11, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 89-11770 Filed 5-15-89; 8:45 am]

BILLING CODE 6820-JC-M

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48 CFR Part 52

[Federal Acquisition Circular 84-46]

Federal Acquisition Regulation (FAR); Restrictions on Procurement of Products and Services From Toshiba/Kongsberg; Correction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment; correction.

SUMMARY: This document corrects FAR 52.225-13(d) in Federal Acquisition Circular (FAC) 84-46 published in the **Federal Register** on Monday, May 8, 1989 (54 FR 19812).

SUPPLEMENTARY INFORMATION: In FR Doc. 89-10847 beginning on page 19812, make the following correction in the third column on page 19832 to read as follows:

52.225-13 [Corrected]

* * * * *

(d) *Exceptions.* The restrictions do not apply—

* * * * *

Dated: May 11, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 89-11769 Filed 5-15-89; 8:45 am]

BILLING CODE 6820-JC-M

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48 CFR Parts 201, 203, and 208

Department of Defense; Federal Acquisition Regulation Supplement; Procurement Integrity

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Department of Defense is issuing a final rule revising the proposed rule published at 54 FR 12566. This final rule implements section 6 of the Office of Federal Procurement Policy (OFPP) Act Amendments of 1988 (Pub. L. 100-679). Revisions to the Federal Acquisition Regulation implementing section 6 of the Act are contained in the **Federal Register** of May 11, 1989 (54 FR 20488).

EFFECTIVE DATE: May 16, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

Section 6 of the Office of Federal Procurement Policy (OFPP) Act Amendments of 1988 amended the OFPP Act by adding section 27, Procurement Integrity. Section 27 contains prohibitions involving: (a) Conduct by offerors, contractors and Government procurement officials, (b) unauthorized disclosure of proprietary or source selection information, and (c) restrictions on Government officials and employees after they leave Government service. The Department of Defense is finalizing revisions to DFARS Parts 201, 203, and 208 to provide coverage implementing recent revisions to the Federal Acquisition Regulation regarding Procurement Integrity.

B. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the revisions are internal to DoD. A regulatory flexibility analysis has therefore not been performed. A proposed rule with request for comments was published in the **Federal Register** on March 27, 1989 (54 FR 12566). No comments were received which addressed the Regulatory Flexibility Act Statement.

C. Paperwork Reduction Act

The rule does not contain information collection requirements and therefore does not require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 201, 203, and 208

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, 48 CFR Parts 201, 203, and 208 are amended as follows:

1. The authority citation for 48 CFR Parts 201, 203, and 208 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

201.403 [Amended]

2. Section 201.403 is amended by adding paragraph (b)(6) to read: "203.104 or FAR Section 3.104."

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3. Sections 203.104 and 203.104–1 are added to read as follows:

203.104 Procurement integrity.

203.104–1 General.

For DoD, as provided in subsection 25(d) of the OFPP Act (41 U.S.C. 421), all agency regulations that supplement or implement FAR 3.104 or this section, beyond internal agency operating procedures, must be approved by the Under Secretary of Defense for Acquisition or his or her designee within that office. Both individual and class deviations must be referred to the DAR Council.

4. Section 203.104–4 is added to read as follows:

203.104–4 Definitions.

(f) For DoD, the agency regulation is DoD Directive 5500.7, Standards of Conduct.

5. Section 203.104–5 is added to read as follows:

203.104–5 Disclosure of proprietary and source selection information.

(e)(4) For purposes of FAR 3.104–5(e)(4) only, DoD agencies shall follow the notification procedures in FAR 27.404(h). However, the first sentence in FAR 27.404(h) does not apply to DoD.

6. Section 203.104–9 is added to read as follows:

203.104–9 Certification requirements.

(b)(2)(viii) For Basic Ordering Agreements, prior to issuance of each BOA order expected to exceed $100,000. For BOA orders, identification of the beginning of the conduct of a procurement (see FAR 3.104–7) applies only to the instant order.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

4. Section 208.7006–5 is amended by designating the existing paragraph as paragraph (a); and by adding paragraph (b), to read as follows:

208.7006–5 Specifications, drawings, and other purchase data.

* * * * *

(b) The Requiring Department shall furnish to the Procuring Department a list of all persons who have had access to proprietary or source selection information (see FAR 3.104–9(f)).

[FR Doc. 89–11757 Filed 5–15–89; 8:45 am]
BILLING CODE 3810–01–M

Proposed Rules

Federal Register
Vol. 54, No. 93
Tuesday, May 16, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 89-087]

7 CFR Part 318

Sharwil Avocados From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of comment period for proposed rule; change in date of public hearing.

SUMMARY: In a document published in the **Federal Register** on May 1, 1989, we gave notice of a public hearing to be held on May 17, 1989, concerning a proposal to amend the Hawaiian Fruits and Vegetables regulations to allow interstate movement pursuant to certificates of untreated Sharwil avocados from Hawaii to any destination. In response to a request, we are changing the date of the public hearing. We are also extending the comment period on the proposed rule.

DATES: Consideration will be given only to comments received on or before June 19, 1989. The public hearing will be held on June 1, 1989, in Los Angeles, California.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Helene R. Wright, Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 87-092. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. The public hearing will be held on June 1, 1989, at the Viscount Hotel, 9750 Airport Boulevard, Los Angeles, California 90045.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Griffin, Staff Officer, Port Operations, PPQ, APHIS, USDA, Room 631, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8645.

SUPPLEMENTARY INFORMATION:

Background

The Hawaiian Fruits and Vegetables regulations (contained in 7 CFR 318.13 through 318.13-17 and referred to below as the regulations), among other things, govern the interstate movement from Hawaii of avocados in a raw or unprocessed state. Regulation is necessary to prevent spread of the Mediterranean fruit fly (*Ceratitis capitata* (Wied.)), the melon fly (*Dacus cucurbitae* (Coq.)), and the Oriental fruit fly (*Dacus dorsalis* (Hendel)). These fruit flies, commonly referred to as "Trifly," infest Hawaii but not the rest of the United States.

On March 7, 1989, we published in the **Federal Register** (54 FR 9453-9455, Docket No. 87-092) a proposal to amend the regulations to allow interstate movement pursuant to certificates of untreated Sharwil avocados from Hawaii to any destination based on compliance with certain harvesting and handling provisions. The proposal solicited comments postmarked or received by May 8, 1989.

Public Hearing and Extension of Comment Period

On May 1, 1989, we published in the **Federal Register** (54 FR 18528, Docket No. 89-065) a notice that a public hearing would be held on the proposed rule in Los Angeles, California, on May 17, 1989. That document also extended the comment period on the proposed rule until Jun 1, 1989. On May 2, 1989, we received a request from the California Avocado Commission to reschedule the hearing, to avoid a conflict of dates with the annual meeting of the Commission. We are granting this request by rescheduling the public hearing for June 1, 1989. We are also extending the comment period on the proposed rule until June 19, 1989, to allow consideration of comments received at or in response to the public hearing.

The public hearing will be held in Los Angeles, California. A representative of the Animal and Plant Health Inspection Service (APHIS) will preside at the public hearing. Any interested person may appear and be heard in person, by attorney, or by other representative. A representative of the Agricultural Research Service (ARS) will also speak at the public hearing, presenting a summary of the research on Sharwil avocados and Trifly that provides the basis for the proposed rule.[1]

The public hearing will begin at 10 a.m. and is scheduled to end at 5 p.m. local time. However, the hearing may be terminated at any time after it begins if all persons desiring to speak have been heard. We request that all persons attending the public hearing register with the presiding officer, and fill out a speakers' registration card if they wish to speak, on the morning of the hearing between 9 a.m. and 10 a.m. at the hearing room. Registered speakers will be heard in the order of their registration. Anyone else who wishes to speak at the hearing will be heard after the registered speakers. We ask that anyone who reads a statement provide two copies to the presiding officer at the hearing.

If the number of registered speakers and other participants at the hearing warrants it, the presiding officer may limit the time for each presentation so that everyone wishing to speak has the opportunity.

The purpose of the hearing is to give interested persons an opportunity for oral presentation of data, views, and arguments. Questions about the scientific research on Sharwil avocados and Trifly that provides the basis for the proposed rule may be addressed to the ARS representative at the hearing. Questions about the content of the proposed rule may be part of the commenters' oral presentations. However, neither the presiding officer nor any other representative of APHIS or ARS will respond to comments at the hearing, except to clarify or explain provisions of the proposed rule.

[1] The initial ARS research was conducted during Hawaii's January-March 1985 harvesting season on 38,241 Sharwil avocados. At our request, ARS continued the study until February 1987. A total of 114,112 Sharwil avocados were ultimately inspected during the 24-hour post-picking period. No Trifly eggs or larvae were found. Documents concerning the ARS research may be obtained from Mr. Robert Griffin, Staff Officer, Port Operations, PPQ, APHIS, USDA, Room 631, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8645. Note: The contact person for this information has been changed since publication of the proposed rule.

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167; 7 CFR 2.17, 2.15, and 371.2(c).

Done at Washington, DC, this 10th day of May 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–11690 Filed 5–15–89; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL TRADE COMMISSION

16 CFR Part 703

Informal Dispute Settlement Procedures

AGENCY: Federal Trade Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice announces the Commission's decision to request public comment on whether to initiate a review of its Rule Governing Informal Dispute Settlement Procedures, 16 CFR Part 703. The Commission is interested in determining whether Rule 703 should remain unchanged, or whether it should be amended. The Commission has made no determination on these issues and has not decided whether to commence an amendment proceeding.

DATE: Written comments and suggestions must be submitted on or before July 17, 1989.

ADDRESSES: Comments and suggestions should be marked "Rule 703 Review" and sent to the Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580.

Copies of the petition, the petitioners' letters and the NAAG Memorandum have been placed on the public record and may be obtained in person from the Public Reference Section, or by writing or calling: 703 Petition Request, Public Reference Section, Federal Trade Commission, Room 130, 6th Street and Pennsylvania Avenue NW., Washington, DC. 20580, (202) 326–2222.

Those commenters who wish copies of these documents or who wish to review them in person should identify the materials as part of FTC File/Binder 209–50.

FOR FURTHER INFORMATION CONTACT:

Carole I. Danielson, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, (202) 326–3115.

or

Steven Toporoff, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580, (202) 326–3135.

SUPPLEMENTARY INFORMATION:

Background

The Magnuson-Moss Warranty Act ("the Act" or "the Warranty Act"), which was passed in 1975, recognized the growing importance of alternatives to the judicial process in the area of consumer dispute resolution. In section 110(a)(1) of the Act, 15 U.S.C. 2310(a)(1), Congress announced a policy of encouraging warrantors of consumer products to establish procedures for the fair and expeditious settlement of consumer disputes through informal dispute settlement mechanisms. To implement this policy, Congress provided in section 110(a)(3) of the Act that warrantors may incorporate into their written warranties a requirement that consumers resort to an informal dispute settlement procedure before pursuing judicial remedies available under the Act for warranty claims. To ensure fairness to consumers, however, Congress directed in section 110(a)(2) that the Commission establish minimum standards for any informal dispute settlement mechanism (IDSM) that is incorporated into a written consumer product warranty. Accordingly, in 1975, the Commission promulgated the Rule on Informal Dispute Settlement Procedures ("Rule 703"), now codified at 16 CFR Part 703.[1]

Rule 703 applies only to those warrantors who place a "prior resort" requirement in their warranty (i.e., who require consumers to use a dispute resolution program prior to exercising any judicial rights under the Magnuson-Moss Warranty Act.) Neither the Act nor the rule requires warrantors to establish an informal dispute settlement mechanism. Moreover, a warrantor is free to set up an IDSM that does not comply with the rule as long as the warrantor does not require consumers to resort to the IDSM before filing claims under the Act. In short, an IDSM must comply with the rule only if the warrantor voluntarily establishes an IDSM and writes into its warranty a requirement that consumers use the IDSM before going to court under the Act.

During the thirteen years that Rule 703 has been in existence, most of the activity in developing mediation and arbitration programs for the resolution of consumer disputes has taken place in the automobile and housing industries. Before 1982, only two warrantors had established IDSMs under Rule 703: Chrysler Corporation and Home Owners Warranty Corporation. With the passage of state lemon laws beginning in 1982, the three domestic automobile manufacturers, as well as numerous importers, began to offer IDSMs under Rule 703. At present, however, only one major domestic automobile manufacturer (Chrysler Corporation) and four importers (Volkswagen, Porsche, Audi and Saab Scania) are participating in some Rule 703 mechanism.[2] In addition, other Rule 703 IDSMs in the housing industry hear disputes between homeowners and builders who offer warranties on new housing. Outside of the housing and automobile industries, no warrantors have established Rule 703 mechanisms. Of course, neither the Magnuson-Moss Warranty Act nor Rule 703 requires the establishment of IDSMs or prohibits warrantors from establishing IDSMs outside the framework of the rule. Some warrantors have, in fact, done so.[3]

Although most automobile manufacturers no longer operate IDSMs under Rule 703, they continue to express interest in participating in informal dispute settlement programs under the rule. This interest has been generated by the passage of "lemon laws" in forty-four states and the District of Columbia. "Lemon laws" entitle consumers to obtain a replacement or a refund for a defective new car if the warrantor is unable to make the car conform to the warranty after a reasonable number of repair attempts.[4] Paralleling section

[1] The Statement of Basis and Purpose for the Rule on Informal Dispute Settlement Procedures appears at 40 FR 60190 (December 31, 1975).

[2] General Motors ceased incorporating an IDSM in its warranty beginning with its 1986 models and no longer operates a 703 program. Ford discontinued operation under Rule 703 with its 1988 model year cars. Similarly, American Honda, Nissan, Volvo, Rolls-Royce and Jaguar have all discontinued operating Rule 703 programs. All of these automobile manufacturers now participate in IDSMs operating outside the framework of the rule.

[3] In particular, non-703 IDSMs have arisen under the sponsorship of trade associations in the furniture industry (Furniture Industry Consumer Action Panel, or FICAP), the home appliance industry (Major Appliance Consumer Action Panel, or MACAP), the funeral industry (Funeral Service Consumer Arbitration Program), and the retail automobile industry (AutoCAP). In addition, a number of automobile manufacturers (including General Motors, Nissan, Toyota, American Honda, and others) participate in non-703 IDSMs operated either by the Better Business Bureau, by AutoCAP, or by the American Automobile Association. In addition, Ford sponsors its own program, the Ford Consumer Appeals Board, which ceased operating under rule 703 as of January 1, 1988.

[4] In most states, it is presumed that a reasonable number of repair attempts have been made if (1) the same defect has been subject to repair four or more times within the first year of ownership, or (2) the car has been out of service for repairs thirty or more days during the first year of ownership.

110(a)(3) of the Magnuson-Moss Warranty Act, most state lemon laws provide that the consumer may not exercise state lemon law rights in court unless the consumer has first presented the claim to the manufacturer's IDSM (if the manufacturer has chosen to establish one). However, those statutes also provide that consumers are required to use the manufacturer's IDSM only if it complies with the FTC standards for IDSMs, as expressed in Rule 703. In addition, some state lemon laws not only require compliance with Rule 703, but also compliance with additional state requirements.

The thirteen years' experience under the existing Rule on Informal Dispute Settlement Procedures has given interested parties, including the FTC, an opportunity to evaluate the effectiveness of Rule 703 in encouraging the establishment of informal dispute settlement procedures and in ensuring that those procedures are fair and easy to use for consumers. This experience has led to criticism of Rule 703 by warrantors, mechanism operators, consumer groups, and state governments. Some have argued that the rule is unduly burdensome and discourages the formation of new mechanisms as well as hindering the efficient operation of existing ones. This criticism particularly notes the costs of compliance with the procedural and recordkeeping obligations imposed by the rule. Others, by contrast, not only have asserted that the rule is insufficiently stringent in many respects, but have also criticized the Commission for failing to enforce the requirements that do exist under the rule in its present form.

Thirteen years ago, when the Federal Trade Commission drafted Rule 703, the field of alternative dispute resolution was still in its infancy and neither the Commission, its staff nor any other party had more than very limited experience in this area. There was a dearth of available knowledge and experience on the use of alternative dispute resolution for consumer disputes. The past decade has witnessed a great expansion of informal dispute resolution activity and knowledge. The large number of experiments and full-fledged programs for informal resolution of consumer disputes provide us with a valuable set of experiences to draw upon in examining Rule 703 and determining whether the rule might be improved and, if so, what revisions should be made in order to maintain the necessary balance between the competing interests of low cost, accessibility, expeditiousness and informality on the one hand, and procedural fairness or "due process" on the other.

In 1986, the Commission decided to reevaluate Rule 703 in an effort to address the criticisms of Rule 703 and to develop proposals for reform. In order to assist in this evaluation, the Commission formed a committee under the Federal Advisory Committee Act, 5 U.S.C. App. I 1-15.[5] The Rule 703 Advisory Committee was made up of persons representing the major interests affected by the rule. The committee met monthly from September, 1986 to June, 1987 in an attempt, through negotiations, to develop a consensus recommendation to the Commission on amendments to Rule 703. If successful, the consensus recommendation would have been incorporated by the Commission in an NPRM initiating a proceeding to amend Rule 703, i.e., a traditional notice-and-comment rulemaking procedure. The advisory committee concluded its meetings in June, 1987, without providing such a consensus recommendation to the Commission. By memorandum dated December 9, 1987, the facilitators of the committee transmitted their final report to the Commission, recommending that the FTC build upon the negotiated rulemaking process to think through various options:

e.g., (1) whether the existing rule should remain in effect, allowing manufacturers to make voluntary improvements in their procedures and consumer groups to take advantage of opportunities for action available to them in other forums, or

(2) whether revisions are possible which will improve the situation, at least partially for all interests.[6]

Although the advisory committee was unable to provide a consensus recommendation, the problems surrounding Rule 703 that were addressed in the regulatory negotiation process still remain and still generate a great amount of interest. Two indications of this continuing interest are a petition filed with the FTC on April 11, 1988, by the Motor Vehicle Manufacturers Association of the United States, Inc. ("MVMA") and the Automobile Importers of America, Inc. ("AIA") and a Memorandum in Opposition ("NAAG Memorandum") to the petition filed by the attorneys general of 41 states on June 22, 1988. The petition requests that the FTC initiate a rulemaking proceeding to amend Rule 703, and includes a proposed revision of the rule. In addition to other substantive proposed revisions, the petitioners' proposal would have the FTC institute a national certification program for IDSMs and would have the Commission preempt those provisions of state laws which impose requirements upon Rule 703 mechanisms which are different from those specified in Rule 703. On July 1 and July 15, 1988, petitioners submitted letters which discuss certain cost analyses that should be considered if the Commission initiates a rulemaking proceeding to amend Rule 703. The NAAG Memorandum from the state attorneys general objects to petitioners' proposed amendments to Rule 703, including the proposals to institute a federal certification program and to preempt conflicting state provisions.

Because of the continuing interest in the issues surrounding Rule 703 and because of the filing of the petition and the NAAG Memorandum with many of those issues raised therein, as well as the thirteen years of experience with alternative dispute resolution of consumer complaints, the Commission believes that the time is appropriate to seek comments on which practices are sound dispute resolution practices and could form the basis for possible revisions to Rule 703.

Accordingly, the Commission hereby publishes this Advance Notice of Proposed Rulemaking to determine whether Rule 703 should remain unchanged, or whether it should be amended. This notice sets forth a statement of the Commission's reasons for requesting comment, a list of specific questions and issues upon which the Commission particularly desires written comment, and an invitation for written comments. The comment period on this matter will close July 17, 1989.

Issues for Public Comment

The Commission invites any interested person to comment upon changes which might be made to Rule 703 in order to better achieve the balance the Commission wishes to maintain between the relevant competing interests. The Commission particularly invites comment on two key questions: (1) Whether the costs of non-uniformity in the laws governing the resolution of warranty disputes outweigh the benefits of such non-uniformity; and (2) whether the costs of an FTC certification of IDSMs outweigh the benefits of such a national certification program. In addition, the Commission seeks comment on whether

[5] The notice of intent to form an advisory committee for regulatory negotiation appears at 51 FR 5205 (February 12, 1986). The notice of formation of the advisory committee and notice of the first meeting appears at 51 FR 29666 (August 20, 1986).

[6] The facilitators' final report has been placed on the public record in this matter and can be obtained from the Public Reference Section.

the FTC should amend Rule 703 in any way, including comment on whether the FTC should adopt any of the proposed amendments to the rule set out in the petition. In order to assist interested persons in focusing their comments, the FTC invites comments on the specific questions listed below.

A. General Policy Considerations

1. Should the achievement of uniformity be one of the purposes of Rule 703? Has the rule accomplished what was intended by paving the way for the development of the current regulatory system? Or, has it failed to facilitate the kind of system that Congress intended to create?

2. Should there be a uniform minimum standards rule for all industries? Or, should 703 procedures be designed to take into account differences among manufacturers and products? (For example, should the process be tiered to take into account smaller businesses or manufacturers who produce lower-cost items; would a "sliding scale" of protections and services encourage additional manufacturers to adopt IDSM procedures?)

3. What are the advantages or disadvantages in permitting consumers a choice of IDSM forums (e.g., warrantor-run mechanisms, state-run mechanisms, privately-run mechanisms, etc.) and a choice of dispute resolution techniques, (e.g., mediation or arbitration, either binding or non-binding)?

4. Does the Commission have the legal authority to preempt state laws that regulate IDSMs which incorporate Rule 703 in some manner? If so, wht limits, if any, exist on that authority to preempt?

5. In what other ways should Rule 703 be amended to encourage greater participation by manufacturers in IDSMs?

6. What reasons prompted those warrantors who no longer participate in IDSMs undr Rule 703 to drop out of Rule 703 programs?

B. Non-Uniformity

(In answering questions, please provide actual or estimated data by specific year, type of mechanism, type of law, and state, where appropriate)

1. Compared with the minimum requirements of a Rule 703 mechanism, what are the costs of non-uniformity imposed by diverse state laws upon warrantors, consumers and mechanisms?

2. Compared with the minimum requirements of a Rule 703 mechanism, what are the benefits of non-uniformity imposed by diverse state laws upon warrantors, consumers and mechanisms?

3. Compared with the minimum requirements of a Rule 703 mechanism, which state requirements increase costs; how and why do these "diverse" requirements impose additional costs?

4. Compared with the minimum requirements of a Rule 703 mechanism, which state requirements increase benefits; how and why do these "diverse" requirements provide additional benefits?

5. Is it more efficient for companies to design mechanisms that conform to that required by the most "stringent" state(s); if so, what are the cost savings from such conformance; if not, what are the additional costs that would be imposed from such conformance?

6. What are the benefits and costs associated with oral presentations to warrantors, consumers and mechanisms?

7. What are the benefits and costs associated with auditing mechanisms to warrantors, consumers, mechanisms and the states?

8. What are the benefits and costs associated with training mechanism personnel to warrantors, consumers and mechanisms?

9. What are the costs to a company of maintaining and administering a mechanism in each state, including company overhead cost for each state; direct costs per case (administrative, legal, etc.) for each state; and length of time to settle (duration of time from complaint to settlement) for each state?

C. Certification

1. What are the likely benefits associated with FTC certification for warrantors, consumers and mechanisms?

2. What specific cost savings to warrantors may be realized from FTC certification?

3. Is there any difference in the time taken to settle disputes in states where certification exists compared to those states where mechanisms are not certified?

4. What are the costs of state certification programs to warrantors, consumers, mechanisms and the states?

5. What are the costs to warrantors of settling disputes in states where mechanisms are certified and in states where certification does not exist?

6. To what extent would an FTC certification program encourage warrantors to change a non-703 mechanism to a 703 mechanism; or adopt any mechanism to resolve disputes, where no such mechanism presently exists?

7. If the FTC were to adopt a certification program how should such a program be set up? For example:

a. What standards or criteria for performance should be established in order for a mechanism to be awarded certification and/or to retain its certification? How would these standards or criteria differ between "operational certification" and "paper certification"?

b. Under what circumstances should certification be denied or revoked? Should there be any sanctions for non-compliance other than denying or revoking certification? If so, what should those sanctions be?

c. What information should a mechanism routinely provide which would be sufficient for the monitoring organization to adequately judge the mechanism's performance?

D. Specific Amendments to the Current Rule

1. Apart from the issues of non-uniformity and certification, should the FTC initiate a rulemaking proceeding to amend Rule 703? If so, which proposed revisions set out in the petition should be adopted? Why? Which ones should not be adopted? Why not?

2. Apart from the proposed revisions set out in the petition, which sections of the current rule should be changed? How should they be revised? Why? Which ones should not be changed? Why not?

By direction of the Commission.

Donald S. Clark,

Secretary.

Dissenting Statement of Commissioner Andrew J. Strenio, Jr.

The Commission majority has decided to publish an Advance Notice of Proposed Rulemaking seeking information with which to decide whether to initiate a rulemaking proceeding that would amend the Commission's Rule on Informal Dispute Settlement Procedures, more commonly known as Rule 703. In so doing, the majority elected to leave pending the petition filed by the Motor Vehicle Manufacturers Association of the United States, Inc. and the Automobile Importers of America, Inc. For the reasons stated below, I dissent from this action.

The petition asks the Commission, among other things, to amend Rule 703 so that it would preempt certain dispute resolution provisions contained in state lemon laws. According to the petitioners, a lack of uniformity at the state level regarding these provisions is burdensome and imposes undue costs. However, the petitioners failed to provide economic or cost data to support these assertions.

Under normal conditions, a petition unaccompanied by supporting evidence would be denied without prejudice by the

Commission. I see no reason to treat this petition differently. Accordingly, I would have denied the petition without prejudice. That way the petitioners could refile without any adverse consequences if and when they assemble supporting evidence. Since the majority has elected not to follow that traditional approach, and since no explanation for this unusual treatment is provided, the public unfortunately can only guess at the rationale for this deviation and what standards will be applied to subsequent petitions to initiate rulemakings by other groups.

[FR Doc. 89-11734 Filed 5-15-89; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[IA-6-89]

RIN 1545-AN00

Reimbursement to State and Local Law Enforcement Agencies

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the rules and regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations to provide guidance to State and local law enforcement agencies in applying for reimbursement of expenses incurred in an investigation where resulting information furnished by the agency to the Service substantially contributes to the recovery of taxes with respect to illegal drug or related money laundering activities. The text of the temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: The regulations are proposed to apply to information first provided to the Service by a State or local law enforcement agency after February 16, 1989. Written comments and request for a public hearing must be delivered or mailed by July 17, 1989.

ADDRESS: Send comments and request for a public hearing to: Internal Revenue Service, Attn: CC:CORP:TR (IA-6-89), Room 4429, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Gail M. Winkler at (202) 566-4442 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations published in the Rules and Regulations portion of this issue of the **Federal Register** add a new temporary regulation § 301.7624-1T to Part 301 of Title 26 of the Code of Federal Regulations (CFR). For the text of the new temporary regulations, see T.D 8255 published in the rules and regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the regulations.

Special Analyses

These proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required.

Pursuant to section 7805(f) of the Code, the rules proposed in this document will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing will be scheduled and held upon written request by any person who submits written comments on the proposed rules. Notice of the time and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Gail M. Winkler of the Office of Assistance Chief Counse (Income Tax and Accounting), Internal Revneue Service and the TreasuryDepartment participated in their development.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 89-11610 Filed 5-15-89; 8:45 am]
BILLING CODE 4830-01-M

26 CFR Parts 301 and 602

[IA-24-89]

RIN: 1545-AN04

Abatement of Penalty or Addition to Tax Attributable to Erroneous Advice

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register,** the Internal Revenue Service is issuing temporary regulations relating to the abatement of a portion of any penalty or addition to tax attributable to erroneous written advice furnished to a taxpayer by the Service. The text of the temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: The regulations are proposed to be effective with respect to advice requested on or after January 1, 1989. Written comments and requests for a public hearing must be delivered or mailed by July 17, 1989.

ADDRESS: Send comments and requests for a public hearing to: Internal Revenue Service, ATTN: CC:CORP:T:R (IA-2489), Room 4429, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Stephen J. Toomey of the Office of Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service, 1111 Constitution Ave, NW., Washington, DC 20224 (Attention: CC:IT&A:06) or telephone 202-566-6320 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504 (h)). Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer TR:FP, Washington, D.C. 20224.

The collection of information requirement in this regulation is contained in section 26 CFR 301.6404-3T. This information is required by the Internal Revenue Service in order to determine whether a taxpayer is entitled to an abatement of a penalty or addition to tax under section 6404(f). The likely respondents are individual taxpayers, businesses or other for-profit organizations, and small businesses or organizations.

The time estimates for the reporting and recordkeeping requirements contained in this regulation are included in the burden of Form 843.

Background

The temporary regulations published in the Rules and Regulations portion of this issue of the **Federal Register** amend the Procedure and Administration Regulations under section 6404 of the Internal Revenue Code of 1986 by adding § 301.6404-3T to Title 26 of the Code of Federal Regulations (CFR). For the text of the new temporary regulations, see T.D. 8254, published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the regulations.

Regulatory Impact Analysis

These proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required.

Submission to Small Business Administration

Pursuant to section 7805(f) of the Code, the rules proposed in this document will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before these temporary regulations are adopted, consideration will be given to any written comments that are submitted (preferably a signed original) to the Internal Revenue Service. All comments will be made available for public inspection and copying. A public hearing will be held upon written request to the Internal Revenue Service by any person who also submits written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of the temporary regulations is Stephen J. Toomey, Office of the Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service. However, other personnel from the Service and Treasury Department participated in the development of the regulations.

Michael J. Murphy,

Acting Commissioner of Internal Revenue.

[FR Doc. 89-11612 Filed 5-15-89; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-89-14]

Special Local Regulations for Marine Events; Oxford Triathlon; Tred Avon River, Talbot County, MD

AGENCY: Coast Guard, DOT.

ACTION: NPRM; withdrawal.

SUMMARY: The Coast Guard is withdrawing rulemaking to establish permanent special local regulations for the swim portion of the Oxford Triathlon held annually on the Tred Avon River, between Bachelor Point and the Oxford-Bellevue Ferry Dock at Bellevue in Talbot County, Maryland. The notice of proposed rulemaking was published in the **Federal Register** on April 12, 1989 (54 FR 14664). The cancellation is effective when published in the **Federal Register**.

FURTHER INFORMATION CONTACT: Billy J. Stephenson, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 (804) 398-6204.

SUPPLEMENTARY INFORMATION: On April 12, 1989 the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for regulations regarding the swim portion of the Oxford Triathlon, held annually in Talbot County, Maryland (54 FR 14664). Interested persons were requested to submit comments. Although no comments were received, the Coast Guard did receive notice from the sponsors of the triathlon that they had been unable to obtain the necessary approvals for the run portion of the race, which meant that the triathlon has to be cancelled. Accordingly, this rulemaking is no longer required and it is withdrawn.

Drafting Information

The drafters of this notice are Mr. Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and Lieutenant Commander Robin K. Kutz, project attorney, Fifth Coast Guard District Legal Staff.

Dated: May 8, 1989.

H. B. Gehring,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District Acting.

[FR Doc. 89-11625 Filed 5-15-89; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD 09-89-04]

Special Local Regulations; Fresh Water Kilo Trials, Buffalo Outer Harbor, Buffalo, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to establish special local regulations for the Fresh Water Kilo Trials. This event will be held on the Buffalo Outer Harbor on 9 September 1989 from 11:00 a.m. to 3:00 p.m. The regulations are needed to provide for the safety of life and property on navigable waters during the event.

DATES: Comments must be received on or before June 30, 1989.

ADDRESSES: Comments should be mailed to Commander (inc), Ninth Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199. The comments will be available for inspection and copying at the Ice Navigation Center, Room 2007A, 1240 East 9th Street, Cleveland, OH. Normal office hours are between 7:30 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered.

FOR FURTHER INFORMATION CONTACT: MST1 Scott E. Befus, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 09-89-04) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this regulation are MST1 SCOTT E. BEFUS, project officer, Office of Search and Rescue and LCDR

C.V. MOSEBACH, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Fresh Water Kilo Trials will be conducted on the Buffalo Outer Harbor on 9 September 1989. This event will have an estimated 40 offshore racing boats which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Station Buffalo, NY).

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the event. This should have a favorable impact on commercial facilities providing services to the spectators. Any impact on commercial traffic in the area will be negligible.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 would be amended to add a temporary § 100.35–0904 to read as follows:

100.35–0904 Fresh Water Kilo Trials, Buffalo Outer Harbor, Buffalo, NY

(a) *Regulated Area.* The Buffalo Outer Harbor, including the Northern, Middle, and Southern channels, and the Outer Harbor Turning Basin.

(b) *Special Local Regulations.* (1) The above area will be closed to navigation or anchorage from 11:00 a.m. (local time) until 3:00 p.m. on 9 September 1989.

(2) The Coast Guard will patrol the regatta area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander." Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum, and in a manner which will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties.

(3) The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regatta area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels so signaled shall stop and shall comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(5) The Patrol Commander may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

(6) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

(7) This section is effective from 11:00 a.m. to 3:00 p.m. on 9 September 1989.

Dated: May 2, 1989.

R. A. Appelbaum,

RADM, U.S. Coast Guard Commander, Ninth Coast Guard District.

[FR Doc. 89–11627 Filed 5–15–89; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

[AA–630–07–4111–02]

Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases Onshore Oil and Gas Order No. 6—Hydrogen Sulfide Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would reissue in proposed form Onshore Oil and Gas Order No. 6, which was previously proposed in 1984 as Onshore Oil and Gas Order No. 2, pursuant to 43 CFR 3164.1. This Order supplements requirements found in 43 CFR Subpart 3162 as well as specific terms of Federal and Indian oil and gas leases. The Order addresses the requirements to conduct drilling, completing, testing, reworking, producing, injecting, gathering, storing, or treating operations of oil or gas that is known or could reasonably be expected to contain hydrogen sulfide (H_2S) or sulfur dioxide (SO_2) produced as a result of flaring of H_2S and that, if accidentally released, could constitute a hazard to human life or property. The Order also identifies the probable corrective actions, normal abatement periods, and enforcement actions that would result when violations of the requirements are found and the violations are not timely abated. The Order would be applicable to all Federal and Indian (except Osage Tribe) oil and gas leases.

Many of the requirements contained in this Order were previously proposed in a draft Notice to Lessees (NTL) 10 (prepared in April 1982 but not finalized) and also were contained in proposed Onshore Oil and Gas Order No. 2 published in the **Federal Register** in 1984 (49 FR 40354).

DATE: Comments should be submitted by July 17, 1989. Comments received or postmarked after the above date may not be considered as part of the decisionmaking process on the issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Chris Hanson, (414) 291–4421 or Sie Ling Chiang, (202) 653–2127.

SUPPLEMENTARY INFORMATION: The existing regulations in 43 CFR Part 3160—Onshore Oil and Gas Operations, § 3164.1, provide for the issuance of Oil and Gas Orders when necessary to supplement and implement the regulations of that Part. That section states that all Orders are to be promulgated through notice and comment procedures similar to the rulemaking process utilized for Bureau of Land Managment (Bureau) regulations, and, when issued in final form, are to be applicable on a nationwide basis. A table is included in § 3164.1 of the existing regulations which shows the existing, and if applicable, former Orders and former Notices to Lessees and Operators. This proposed rulemaking would result in another such Order. This proposed Order is specifically intended to supplement and implement the provisions of § 3162.1 General Requirements; § 3162.5–1 Environmental Obligations; § 3162.5–2 Control of Wells; and § 3162.5–3 Safety Precautions.

Industry practices for operations in a hydrogen sulfide (H_2S) or sulfur dioxide (SO_2) environment have been established and the standards of the Department of the Interior have been previously identified by the former Conservation Division of the U.S. Geological Survey in Manual section R79–CDM 643.9 and draft Notice to Lessees (NTL) 10. Subsequently, the Bureau of Land Management published a proposed rulemaking, Onshore Oil and Gas Order No. 2, in the **Federal Register** on October 15, 1984 (49 FR 40354). Onshore Oil and Gas Order No. 2, the previously proposed rulemaking, dealt with the conduct of operations in an H_2S environment. The proposed Order was subsequently corrected by a publication in the **Federal Register** dated November 8, 1984 (49 FR 44655).

A significant number of comments were received from oil and gas industry representatives and groups on proposed Onshore Oil and Gas Order No. 2. The comments on that proposed Order called for extensive revision of the proposed Order. In recognition of the validity of many of the comments, a determination was made to publish a new proposed rulemaking which addresses many of the concerns set forth in the comments. This proposed rulemaking is that republication, but has been renumbered as proposed Onshore Oil and Gas Order No. 6. The specific changes made by this new proposed rulemaking and the reasons for the adoption or rejection of specific suggestions regarding the original proposed Onshore Oil and Gas Order No. 2 are described later in this preamble.

It is the intent of the Bureau of Land Management to identify its uniform national requirements for operators who conduct operations that are known to or could reasonably be expected to involve oil or gas that contains H_2S or which could result in the release of SO_2 as a result of flaring of H_2S. This rule also addresses the procedures to be followed in areas where H_2S is known not to exist or cannot reasonably be expected to exist. It also is the Bureau's intent to identify in advance the probable corrective actions, normal abatement periods, and enforcement actions that will result when a violation(s) of the requirements is found and the violation(s) is not timely abated. This proposed Order is applicable to all onshore Federal and Indian (except Osage Tribe) oil and gas leases when drilling, completing, testing, reworking, producing, injecting, gathering, storing or treating operations are being conducted in zones which are known or could reasonably be expected to contain concentrations of H_2S (100 ppm or more H_2S in gas stream) or which, as a result of flaring of the H_2S, might result in SO_2 gas in such quantities that, if permitted to escape or to be accidentally released, could constitute a hazard to human life or property. This Order sets standards which have been developed to be minimums for H_2S operations under differing conditions and in different parts of the country. It is recognized that under some conditions, additional requirements will be imposed routinely or general variances to specific requirements will be granted in approval documents or on a field-wide basis. In developing these standards, the committee responsible for the preparation of this proposed Order has referred to existing regulatory and industry standards, such as those prepared by the Federal Occupational Safety and Health Administration (OSHA), Minerals Management Service, American Petroleum Institute, the Texas Railroad Commission, the American National Standards Institute, and the National Association of Corrosion Engineers.

The purpose of this proposed rulemaking is to achieve a better understanding by the oil and gas industry of the requirements of the Bureau of Land Management for hydrogen sulfide operations so that operations to develop Federal mineral resources may be conducted in a consistently safe manner. This proposed Order will also serve to promote more uniform and consistent inspections by the Bureau.

The primary emphasis of this proposed Order is on requirements that are necessary to maintain control of wells and protect public health and safety and that are distinct from Federal OSHA requirements to protect workers. It is the intent of this proposed Order to establish requirements and minimum standards that are applicable in the majority of H_2S operations on a national scale and, as such, grant the authorized officer discretionary authority to approve measures, which may vary from those contained in this proposed Order, when such other measures are determined to be reasonable, necessary, and justified. Further, this proposed Order places on the operator(s) the primary burden of responsibility for many of the application, reporting, and review requirements (i.e., determining radii of exposure, reviewing H_2S drilling operations and public protection plans, reporting H_2S releases, advising the authorized officer if H_2S is encountered unexpectedly, change of field conditions, etc.).

The proposed Order also includes provisions, as applicable, for well completion and workover operations. The public is invited to specifically review and comment on these provisions.

In general, the proposed Order is comprised of four sections which include: (1) Applications, approvals, and reports; (2) public protection; (3) drilling/completion/workover requirements; and (4) production requirements.

The major differences between this proposed Order and the provisions of NTL–10 and the previously proposed Order No. 2 are: (1) The threshold applicability criteria in this proposed Order of 100 ppm H_2S in the gas stream (previously 20 ppm); (2) the elimination of the need to calculate a 20 ppm radius of exposure around wells and facilities; (3) the applicability of the Pasquill-Gifford equation will be applicable only for calculation of radii of exposure where the actual or anticipated H_2S concentrations are less than 10 percent by volume in the gas stream; and (4) the requirement of a H_2S Drilling Operations Plan and, if the general public is potentially affected, a Public Protection Plan (previously jointly referred to as "contingency plan").

The major changes concerning drilling made by the proposed Order are: (1) The emphasis to protect "essential personnel" which is defined as those on-

site personnel necessary to maintain control of the well as opposed to other personnel on-site to perform other functions; (2) the applicability of this proposed order to areas where H_2S is known not to exist or cannot be reasonably expected; (3) the certification by the applicant in the Application for Permit to Drill (APD) that all personnel will receive proper H_2S safety training prior to the terms of the proposed Order being effective; (4) the requirement that the terms of the proposed Order be in effect when drilling reaches a depth of 500 feet above, or 3 days prior to penetrating (whichever comes first) the first zone containing or expected to contain H_2S (previously 1,000 feet or 7 days); (5) the requirement that a suitable and safe means of flare ignition must be used (automatic ignitor previously required); (6) the requirement for equipment to monitor SO_2 levels in the flare area; (7) the limitation of the use of mud-gas separator and rotating head to areas where pressures are unknown; and (8) the allowance for either red, white and black, or yellow and black colors as "danger" or "caution" signs, respectively.

The major revisions concerning production from the 1984 proposed order made by this proposed Order are: (1) The limitation to stock tanks with 500 ppm H_2S vapor or more in the tank in the Order (previously 100 ppm H_2S vapor in stock tank); (2) the elimination of the blanket requirement for installation of vapor recovery equipment at all stock tanks; (3) the requirement that production facilities subject to the Order include all equipment to the point of sales for royalty purposes; (4) the requirement that existing facilities have 180 days from the effective date of the Order to determine the H_2S concentration, calculate the 100 and 500 ppm radii of exposure and submit the information and one year to modify all production facilities in accordance with the terms of the Order (previously 30 and 150 days, respectively); (5) the determination that automatic safety valves will be required only when specified criteria are met; and (6) the modification of provisions for warning signs along flow lines.

The proposed rulemaking for Onshore Oil and Gas Order No. 2 resulted in the receipt of comments from 51 oil and gas companies and industry organizations. A summary of the significant comments and the action taken in the development of this proposed rulemaking is discussed below.

General Comments

Several of the comments suggested that proposed Onshore Oil and Gas Order No. 2 exceeded the Bureau of Land Management's authority regarding worker safety and unnecessarily overlapped with the requirements of the States and the Occupational Safety and Health Administration (OSHA) of the Department of Labor. During the time since the order was first proposed, the Bureau has worked with OSHA to eliminate overlap areas and narrow the scope of this proposed Order to include only those requirements for which BLM has responsibility, i.e., those minimum standards necessary to maintain control of the well(s) and protect public health and safety.

Other general comments expressed the view that the economic impact of proposed Order No.2 on the industry, particularly the small and independent operators, was underestimated. The comments identified principal areas of increased costs such as rental equipment for drilling and monitoring (i.e., BOPs. chokes, rotating head, mud-gas separators, and portable detectors) and converting all existing storage tanks to "closed systems" and retrofitting many wells with two maater valves and automatic safety valves for production. In an effort to meet the issues raised in these comments, this proposed Order has shortened the time (3 days or 500 feet above a known or expected H_2S formation) within which H_2S drilling equipment will be required and now requires extra equipment only when necessary or pressures dictate, thereby reducing the costs. The minimum number of pieces of respiratory and portable detection equipment required by the proposed Order would be limited to that necessary for "essential personnel" in recognition of the difference in the Bureau's area of responsibility (requiring that the well be controlled and protecting public health and safety) vis-a-vis the jurisdiction generally delegated to OSHA for overall worker safety. The blanket requirement of proposed Order No. 2 that all storage facilities be converted to "closed systems" also has been eliminated by this proposed Order, thus eliminating a major portion of the previously anticipated costs. In addition, the requirement for two master valves and automatic safety valves for existing wells has been modified by this proposed Order to be required only when specific public protection applicability criteria are met. This proposed Order tailors H_2S requirements to those necessary to protect the Federal interests within the regulatory authority of the Bureau of Land Management. The requirements of this proposed Order are reflective of common industry practices currently in use, e.g., the American Petroleum Institute's *Recommended Practices—49*. Therefore, this proposed Order will not have a major economic impact on the oil and gas industry as a whole or to a substantial number of small entities.

Comments on Specific Issues

Many of the comments on proposed Onshore Oil and Gas Order No. 2 expressed concern that the threshold criteria of 20 ppm H_2S in the gas stream for implementing the requirements of an Order covering H_2S was unnecessarily low. The Bureau of Land Management agrees that its authority regarding H_2S is related to public health and safety and to maintaining well control, therefore, this proposed Order uses a threshold criteria of 100 ppm (in the gas stream), a level that the Bureau believes, based, in part, on the Environmental Protection Agency's research on ambient air concentrations of H_2S on human beings would protect public health and safety. However, a 10 ppm ambient air concentration either on a drilling/completion/workover site, or 50 feet from a production facility, would trigger the provisions of the drilling operations plan or require vapor recovery, respectively.

Great concern was expressed in the comments about whether the Order would be made applicable to areas where H_2S is unknown. The applicability criteria to determine when the terms of this proposed Order are in effect have been rewritten to provide that formations must be known to or could reasonably be expected (based on geology in the basin, experience, etc.) to contain H_2S. The Bureau has determined that there is not sufficient justification to require these measures be implemented on sites where hydrogen sulfide is not known or could not reasonably be expected to be present.

Several of the comments expressed the view that Bureau of Land Management authorized officers and inspection personnel are not generally knowledgeable about H_2S, do not exercise discretionary authority in a reasonable manner, and are relatively inflexible in enforcing H_2S requirements. In response to these comments, the Bureau has established a training program to educate its personnel concerning H_2S and this reproposed Order generally establishes standards which provide limited discretionary authority to the authorized officer to require more or, in some cases, less

stringent standards; for example, an old field where a history of safe operations exists would allow the authorized officer to require less stringent standards. The Bureau's policy with regard to inspector flexibility is that all inspections are to be uniform and if the inspector determines that the minimum standards in this proposed Order are found to apply, they will be enforced.

Some comments addressed the requirement that a determination of H_2S concentrations be made before the submission of an Application for a Permit to Drill, about the requirement to annually test the H_2S concentration of each well and facility, and the 30-day time frame to submit such data to the Bureau of Land Management. The Bureau agrees that this may be unnecessarily burdensome, therefore, the proposed Order will require the operator to 1) submit only the 100 and 500 ppm radii-of-exposure to the Bureau with an Application for Permit to Drill and 2) test the wells and facilities initially for H_2S concentration, with the information made available to the Bureau only upon request. The proposed Order also extends the requirement to submit such information to 180 days for existing wells and 60 days for new wells.

A significant number of the comments raised questions about the meaning of the phrase "potential for public access" as it was used in the public participation applicability criteria in proposed Order No. 2. The Bureau agrees that such wording may be too inclusive, and, thus the wording has been changed in this proposed Order to read "where the public could be reasonably expected to frequent." The public is specifically requested to review this wording and offer comments on this language.

Many of the comments expressed the opinion that the 1,000 feet or 7 days before the first H_2S formation proposed requirement is too restrictive and would add unnecessarily to drilling costs. Various drilling scenarios, e.g., high versus low penetration rates, were developed in connection with the preparation of this proposed Order, and it is agreed that the provisions set forth in proposed Order No. 2 are unnecesarily stringent; therefore, this proposed Order provides for 500 feet or 3 days prior to penetrating (whichever comes first) the known or anticipated H_2S zone.

A number of the comments indicated that the requirement in proposed Order No. 2 to contact the authorized officer and obtain approval to resume drilling when H_2S was unexpectedly encountered would be too burdensome and unreasonable during the normal course of business. This proposed requirement has been rewritten in this Order to place on the operator the responsibility to implement the minimum operational requirements of the proposed Order prior to resuming drilling ahead operations. The paperwork and notification requirements may be met later (within specified time periods), provided that the requirements have been accomplished.

Several of the comments suggested that a standard 2-mile radius map that was proposed to be submitted with the Public Protection Plan by proposed Order No. 2 was not necessary in instances where the H_2S concentration is known. It is agreed that the 2-mile radius map should be replaced with a map that focuses on the H_2S concentration; therefore, this proposed Order makes reference to the 100 ppm radius (or 3,000 feet, if conditions are not known).

A number of the comments objected to the proposed requirement for two access roads at drilling locations. This proposed Order has changed that provision by lessening the proposed requirement for two access roads to those instances where two such roads are practical, with a footpath (in addition to one access road) being sufficient as a means of safe egress where a second road is not practical.

Many of the comments objected to the provision in proposed Order No. 2 that H_2S training be provided by "an instructor acceptable to the authorized officer." Proposed Order No. 6 no longer contains this proposal, but has replaced it with language requiring the operator to certify that all personnel will be trained in accordance with American Petroleum Institute *Recommended Practices—49.*

Some comments suggested that the designation of the most normally upwind briefing area be changed from "Safe" to "Primary" briefing area in order that the terminology in this order be consistent with standard industry parlance. This suggestion has been adopted by this proposed Order.

A variety of concerns about responsiblity for the availability and use of protective equipment for personnel were expressed. The Bureau is responsible for public health and safety; however, responsibility for implementing a proper respiratory protection program lies with the operator. In recognition of common industry practice, proposed Order No. 6 provides that equipment must be "readily available," communication equipment for outside contact must be provided where "practical," and all personnel must be able to obtain a facial seal with the breathing equipment rather than the more stringent measures previously proposed. In addition, the operator shall advise service companies of the H_2S hazard so that they may take necessary measures to protect their employees.

The proposed requirements of the previously proposed Order concerning the location and testing of H_2S detection and monitoring equipment were the focus of a significant number of critical comments. In general, the comments suggested that the Bureau was using a broad-brush approach which was excessively expensive and would not accrue substantial benefits in terms of increased public health and safety. The Bureau concurs with these comments and has, therefore, narrowed the parameters of these provisions. For example, this proposed Order does not contain the daily testing requirement for detection and monitoring equipment; instead, operators shall test equipment in accordance with the manufacturer's recommendations as the Bureau believes this to be sufficient from a safety standpoint. Also, one of the required sensing points for drilling rigs was changed from the "cellar" to the "bell nipple." Finally, under the provisions of this proposed Order only "essential" personnel (i.e., those necessary to maintain control of the well and protect public health and safety) are required to have a portable H_2S detector capable of sensing 10 ppm of H_2S on-site, instead of requiring all personnel to wear portable personal detectors.

Many of the comments suggested changes regarding visible warning systems, including the type and number of wind direction indicators needed, the color, placement, size, wording, and illumination of warning signs, and the use of a colored-flag warning system. Again, commentors indicated that the Bureau was requiring a level of protection that was economically excessive and would not significantly increase protection of public health and safety. The Bureau concurs with this assessment, and has, therefore, narrowed the scope of these provisions to encompass those minimum standards necessary to maintain control of the well and protect public health and safety; further measures can be taken at the operator's discretion. This proposed Order includes a requirement that only two wind direction indicators be used, as long as they can be seen from all necessary points on the location; a requirement that signs be legible and visible under all lighting and weather

conditions, with allowable colors being red, white, and black or yellow and black for drilling wells in accordance with revised OSHA standards, with the wording on warning signs to be equivalent to the requirement; and that a red warning flag with an accompanying information sign may be required as a minimum warning system. Additionally, warning signs on all sides of the drilling rig are not included in this proposed Order, but the requirement for bilingual or multilingual signs, where necessary, has been retained.

Several of the comments expressed the view that the requirements for "contingency plans" set out in proposed Order No. 2 were unclear for completion/workover operations as opposed to new operations. This proposed Order has been tailored, where necessary, to address these ongoing operations. The proposed Order does not include minimum requirements for preparation of a specific H_2S operations plan for completions/workovers as is required for new operations not yet approved by the Bureau for operation. In order to assure that maintenance of the well and protection of public health and safety are assured at completion/workover operations, this proposed Order allows Public Protection Plans (where the public protection applicability criteria apply) for individual operations to be included in a field-wide H_2S plan for routine operations instead of requiring the preparation of a separate plan as is the case for new operations.

The provisions in proposed Order No. 2 relating to "Critical Operations and Curtailment Plans" and "Operating Procedures and Equipment" were discussed in a significant number of comments. This proposed Order has deleted these provisions because these areas fall outside the Bureau's jurisdiction and are, therefore, best left to the discretion of the operator.

The comments on the requirement in proposed Order No. 2 for an automatic ignitor stated that other and more reliable equipment and methodologies could be used to accomplish the same purpose. The Bureau recognizes the validity of this point and therefore, this proposed Order requires a "suitable and safe" means of ignition.

A significant number of comments objected to the requirement in proposed Order No. 2 for a remote kill line, remote-controlled choke, mud-gas separator, and rotating head. After reviewing the objections raised in the comments, this proposed Order has eliminated the requirement for a remote kill line because it was agreed that the requirement was excessive in a majority of cases, but the remote kill line will continue to be required for wells in excess of 5,000 psi by "Onshore Order No. 2-Drilling." However, the requirement for a remote-controlled choke is considered essential and this requirement has been retained by this Order. Mud-gas separators and rotating heads would be required by this Order for exploratory wells only.

A number of the comments on proposed Order No. 2 dealt with the proposed mud program provisions, with the primary concern on the proposed requirement to maintain a pH of 10 in a salt-water based mud system as an indicator of H_2S. The commentors suggested that in order to maintain a ph level of 10 in a salt-water based mud system, the level of chemicals which would have to be added to the mud could, in some cases, affect the viscosity and other characteristics of the mud system which are essential to maintaining control of the well. The concerns expressed in these comments are well taken; therefore, this provision has been modified in this proposed Order to require that a pH of 10 shall be maintained for fresh-water mud systems but a lesser pH level may be allowed by the authorized officer for certain salt-water based systems.

Numerous comments concerned the provisions for kick detection and well control in proposed Order No. 2, with the suggestion that adherence to these practices might not be prudent. The Bureau recognizes the validity of these concerns and therefore has determined that specific techniques for fulfilling these provisions need not be included in this order.

Several of the comments on previously proposed Order No. 2 suggested that the Order was too vague or imposed unnecessary requirements on completion/workover operations. This proposed Order has been tailored, where necessary, to specifically address completion/workover operations to meet the objections in the comments.

A significant number of the comments were received on the requirements in previously proposed Order No. 2 on the measurement of H_2S from stock tanks and the resulting use of the applicability criteria. There was strong objection to the 100 ppm criteria because it was believed to be excessively stringent. BLM recognizes that the 100 ppm criteria proposed for stock tanks was too low and that measurement outside the tank can be difficult.

Therefore, 500 ppm H_2S in the stock tank head space is the proposed criteria in this proposed order.

The 150 day compliance deadline for the production requirements of proposed Order No. 2 for existing facilities was objectionable to most of the commentors who believe that 150 days did not provide enough time to bring existing operations into compliance. After reviewing this issue, the Bureau agrees that the compliance period should be longer; therefore, this proposed Order requires that existing production facilities must be in compliance within one year after the effective date of the Order.

A large number of comments were received concerning the logic, economics, and desirability of requiring "closed systems" on all stock tanks. The general concern of those commenting on this issue suggests that this blanket requirement was unnecessary and created an economic burden. In agreement with the comments, the Bureau has amended the proposed order to require a "closed" or "vapor recovery" system in those situations when ambient H_2S concentrations exceed the standard baseline of 10 ppm at 50 feet from a facility or where a public area is continuously subjected to similar concentrations.

Numerous comments were received objecting to the signing and fencing requirements at surface facilities, including gathering and flowlines. The Bureau believes signing and fencing requirements must assure control of the well and protect public health and safety. The Bureau also recognizes that the previous proposed order may have gone further than necessary to establish the minimum standards necessary to maintain control of the well and protect public health and safety. Thus, review of the comments has led to a change in this Order requiring fencing for all facilities, except flowlines, within ¼ mile of a town, city, or other high density population area. Danger signs for flowlines will be required where such lines cross public or lease roads.

A number of comments were submitted on the issue of personnel protection at production sites, with comments suggesting that more flexibility in the use of equipment was necessary. Since this section of the previously proposed Order dealt solely with the question of personnel protection, including, "non-essential" personnel (i.e., those employees not responsible for maintaining control of the well and protecting public health and safety) and the subject of personnel protection necessary to protect public health and safety is addressed in the Drilling Operations Plan, this section of the previously proposed Order has been deleted.

A number of the comments expressed concern over the cost associated with the proposed requirement for two master valves and subsurface automatic safety valves. The comments questioned the reliability, need, and associated cost-benefits of such a requirement. The point is acknowledged and, therefore, this proposed Order will require a secondary means of control through the Christmas tree for all wells and two master valves and an automatic safety valve will be required only when the public is potentially at risk.

There were a number of comments concerning the proposed requirement in proposed Order No. 2 for use of corrosion coupons and H_2S detectors. These requirements are adequately addressed by the Public Protection Plan where the public is at risk and primarily constitute recommended practices. Therefore, this Order has deleted these requirements.

Several comments were received regarding sulfur dioxide (SO_2). This proposed Order amends the provisions that relate to SO_2 so that anytime H_2S is flared and SO_2 results, the SO_2 concentrations must be monitored and if the SO_2 concentration exceeds the threshold level of 2 ppm in any occupied residence, school, church, park, playground, school bus stop, place of business, or area where the public could reasonably be expected to frequent, corrective action must be taken.

This proposed Order sets forth in section IV the conditions whereby an operator may request a variance from the requirements set out in the Order. All enforcement actions, reviews, and appeals taken pursuant to this proposed Order would be subject to the regulations in 43 CFR subparts 3163 and 3165.

The principal authors of this proposed rulemaking are Chris Hanson, Milwaukee, Wisconsin, James E. Rasmussen, formerly of Elko, Nevada, Hank Szymanski, Washington, D.C., William A. Douglas, Cheyenne, Wyoming, Ken Baker, Great Falls, Montana, assisted by the Orders Task Group, Deborah Lanzone of the Division of Legislation and Regulatory Management, all of the Bureau of Land Management, and the staff of the Office of the Solicitor, Department of the Interior.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601).

This proposed Order will have no adverse economic effects, since its requirements reflect the operating practices currently followed by prudent operators when conducting operations in hydrogen sulfide areas. It may provide a beneficial economic effect in that industry is less likely to be subjected to assessments or penalties resulting from violations and/or the requirement to undertake costly remedial actions if it has a better understanding of the Bureau of Land Management's requirements relating to conducting H_2S operations. The major requirements contained in this proposed Order are essentially those which have been required in the past by the Department of the Interior and impose the same burden on all lessees and operators, regardless of size, on lands where H_2S operations are being conducted under the jurisdiction of this Bureau.

This proposed Order contains no new information collection requirements requiring the approval of the Office of Management and Budget under 44 U.S.C. 3507. All proposed and existing information collection requirements for this and other Order are included in the following approvals: 1004–0134, 1004–0135, or 1004–0136.

List of Subjects 43 CFR Part 3160

Government contracts, Mineral royalties, Oil and gas exploration, Oil and gas production, Public lands—mineral resources, Indian lands—mineral resources, Reporting requirements.

For the reasons stated above, it is proposed to amend 43 CFR 3160 as set forth below:

PART 3160—[AMENDED]

1. The authority citation for 43 CFR 3160 continues to read:

Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Act of May 21, 1930 (30 U.S.C. 301–306), the Act of March 3, 1909, as amended (25 U.S.C. 396), the Act of May 11, 1938, as amended (25 U.S.C. 396a–396q)., the Act of February 28, 1891, as amended (25 U.S.C. 397), the Act of May 29, 1924 (25 U.S.C. 398), the Act of March 3, 1927 (25 U.S.C. 398a–398e), the Act of June 30, 1919, as amended (25 U.S.C. 399), R.S. 441 (43 U.S.C. 1457). See also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41), the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Act of December 12, 1980 (43 U.S.C. 6508), the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), and the Indian Mineral Development Act of 1982 (25 U.S.C. 2102 et seq.).

§ 3164.1 [Amended]

2. Section 3164.1(b) is amended by revising the table which is part of § 3164.1(b):

* * * * *

(b) * * *

Order No. and subject	Effective date	Federal Register reference	Supersedes
1. Approval of operations	Nov. 12, 1983	48 FR 48916 and 48 FR 56226	NTL-6.
2. Drilling	Dec. 19, 1988	53F FR 46798	None.
3. Site security	Feb. 24, 1989	54 FR 8056	NTL-7.
4. Measurement of oil	Feb. 24, 1989	54 FR 8086	None.
5. Measurement of gas	Feb. 24, 1989	53 FR 8100	None.
6. Hydrogen sulfide operations			None.

Note: Numbers to be assigned sequentially by the Bureau as proposed Orders are prepared for publication.

March 6, 1989.

James E. Cason,

Acting Secretary of the Interior.

Note. This appendix will not appear in the Code of Federal Regulations.

Appendix—Text of Oil and Gas Order No. 6

I. Introduction.
- A. Authority.
- B. Purpose.
- C. Scope.

II. Definitions.

III. Requirements.
- A. Applications, Approvals, and Reports.
- B. Public Protection.
- C. Drilling/Completion/Workover Requirements.
- D. Production Requirements.

IV. Variances from Requirements.

Attachments

I. Section from 43 CFR Subparts 3163 and 3165.

I. Introduction

A. Authority

This Order is established pursuant to the authority granted to the Secretary of the Interior through various Federal and Indian mineral leasing statutes and the Federal Oil and Gas Royalty Managememt Act of 1982. This authority has been delegated to the Bureau of Land Management and is implemented by the onshore oil and gas operating regulations contained in 43 CFR Part 3160. More specifically, this Order supplements and implements the provisions of § 3162.1—General Requirements; § 3162.5–1(a)(c)(d)—Environmental Obligations; § 3162.5–2(a)—Control of Wells; and § 3162.5–3—Safety Precautions.

43 CFR 3164.1 specifically authorizes the Director, Bureau of Land Management, to issue Onshore Oil and Gas Orders, when necessary, to implement or supplement the operating regulations and provides that all such Orders shall be binding on the operator(s) of all Federal and Indian (except Osage Tribe) oil and gas leases which have been, or may hereafter be, issued. The authorized officer has the authority pursuant to 43 CFR 3161.2 to implement the provisions of this Order, require additional information, and approve any plans, applications, or variances raquired or allowed by the Order.

The authorized officer may, pursuant to 43 CFR 3164.2, issue Notices to Lessees and Operators (NTL's), after notice and comment, to supplement or provide variances of this Order as necessary to accommodate special conditions on a State or area-wide basis. Further information concerning variances may be found in section IV. of this Order.

B. Purpose

The purpose of this Order is to protect public health and safety and those personnel essential to maintaining control of the well. This Order identifies the Bureau of Land Management's uniform national requirements and minimum standards of performance expected from operators when conducting operations involving oil or gas that is known or could reasonably be expected to contain hydrogen sulfide (H_2S) or which results in the emission of sulfur dioxide (SO_2) as a result of flaring H_2S. This Order also identifies the probable corrective actions, normal abatement periods, and enforcement actions that will result when violations of the requirements and minimum standards are found and the violations are not timely corrected.

C. Scope

This Order is applicable to all onshore Federal and Indian (except Osage Tribe) oil and gas leases when drilling, completing, testing, reworking, producing, injecting, gathering, storing, or treating operations are being conducted in zones which are known or could reasonably be expected to contain H_2S or which, when flared, could produce SO_2, in such concentrations that upon release they could constitute a hazard to human life or property. The requirements and minimum standards of this Order do not apply when operating in zones where H_2S is presently known not to be present or cannot reasonably be expected to be present in concentrations of 100 parts per million (ppm) or more in the gas stream.

The requirements and minimum standards in this Order do not relieve an operator from compliance with any applicable Federal, State, or local requirement(s) regarding H_2S or SO_2 which are more stringent.

II. Definitions

A. "Authorized officer" means any employee of the Bureau of Land Management authorized to perform the duties described in 43 CFR Groups 3000 and 3100 (3000.0–5).

B. "Authorized Representative" means any person or entity authorized by the operator or operating rights owner to perform the duties prescribed (See 43 CFR 3160.0–5).

C. "Christmas tree" means an assembly of valves and fittings used to control production and provide access to the producing tubing string. The assembly includes all equipment above the tubing-head top flange.

D. "Dispersion technique" means a mathematical representation of the physical and chemical transportation, dilution, and transformation of H_2S gas emitted into the atmosphere.

E. "Escape rate" means that the maximum volume (Q) used as the escape rate in determining the radius of exposure shall be that specified below, as applicable:

1. For a production facility, the escape rate shall be calculated using the maximum daily rate of gas produced through that facility or the best estimate thereof;

2. For gas wells, the escape rate is calculated by using the current daily absolute open-flow rate against atmospheric pressure;

3. For oil wells, the escape rate shall be calculated by multiplying the producing gas/oil ratio by the maximum daily production rate or best estimate thereof;

4. For a well being drilled in a developed area, the escape rate may be determined by using the offset wells completed in the interval(s) in question.

F. "Essential personnel" means those on-site personnel directly associated with the operation being conducted and necessary to maintain control of the well.

G. "Exploratory well" means any well drilled beyond the known producing limits of a pool.

H. "Gas well" means a well which has been determined to produce predominantly gas as defined by the appropriate State regulatory agency and ratified or accepted by the authorized officer.

I. "H_2S Drilling Operations Plan" means a written plan which provides for safety of essential personnel and for maintaining control of the well with regard to H_2S and SO_2.

J. "Lessee" means a person or entity holding record title in a lease issued by the United States (3160.0–5).

K. "Major violation" means noncompliance which causes or threatens immediate, substantial, and adverse impacts on public health and safety, the environment, production accountability, or royalty income (3160.0–5).

L. "Minor violation" means noncompliance which does not rise to the level of a major violation (3160.0–5).

M. "Oil well" means a well which has been determined to produce predominantly oil as defined by the appropriate State regulatory agency and ratified or accepted by the authorized officer.

N. "Operating rights owner" means a person or entity holding operating rights in a lease issued by the United States. A lessee may also be an operating rights owner if the operating rights in a lease or portion thereof have not been severed from record title (3160.0–5).

O. "Operator" means any person or entity including but not limited to the lessee or operating rights owner who has stated in writing to the authorized officer that he/she is responsible under the terms of the lease for the operations conducted on the leased lands or a portion thereof (3160.0–5).

P. "Production facilities" means any wellhead, flowline, piping, treating, or separating equipment, water disposal pits, processing plant or combination thereof prior to the point of measurement for royalty purposes for any lease, communitization agreement, or unit-participation area.

Q. "Prompt correction" means immediate correction of violations, with

operation suspended if required at the discretion of the authorized officer.

R. "Public Protection Plan" means a written plan which provides for the safety of the potentially affected public with regard to H_2S and SO_2.

S. "Radius of exposure" means the calculation resulting from using the following Pasquill-Gifford derived equation, or by such other method(s) as may be approved by the authorized officer:

1. For determining the 100 ppm radius of exposure where the H_2S concentration in the gas stream is less than 10 percent:

$$X=[(1.589)(H_2S \text{ concentration})(Q)]^{(0.6258)}$$

or

2. For determining the 500 ppm radius of exposure where the H_2S concentration in the gas stream is less than 10 percent:

$$X=[(0.4546)(H_2S \text{ concentration})(Q)]^{(0.6258)}$$

where:

X=radius of exposure in feet;

H_2S Concentration=decimal equivalent of the mole or volume fractions (percent) of H_2S in the gaseous mixture;

Q=maximum volume of gas determined to be available for escape in cubic feet per day (at standard conditions of 14.73 psia and 60 °F);

3. For determining the 100 ppm or the 500 ppm radius of exposure in gas streams containing H_2S concentrations of 10 percent or greater, a dispersion technique that takes into account representative wind speed, direction, atmospheric stability, complex terrain, other dispersion features shall be utilized. Commonly, 1 of a series of computer models outlined in the Environmental Protection Agency's "Guidelines on Air Quality Models — (EPA–450/2–78–027R) may be used;

4. Where multiple H_2S sources (i.e., wells, treatment equipment, flowlines, etc.) are present, the operator may elect to utilize a radius of exposure which covers a larger area than would be calculated using radius of exposure formula for each component part of the drilling/completion/workover/production system;

5. For a well being drilled in an area where insufficient data exists to calculate a radius of exposure, but where H_2S could reasonably be expected to be present in concentrations in excess of 100 ppm in the gas stream, a 100 ppm radius of exposure equal to 3,000 feet shall be assumed.

T. "Zones known to contain H_2S" means geological formations in a field where prior drilling, logging, coring, testing, or producing operations have confirmed that H_2S-bearing zones will be encountered that contain 100 ppm or more of H_2S in the gas stream.

U. "Zones known not to contain H_2S" means geological formations in a field where prior drilling, logging, coring, testing, or producing operations have confirmed the absence of H_2S-bearing zones that contain 100 ppm or more of H_2S in the gas stream.

V. "Zones which can reasonably be expected to contain H_2S" means geological formations in the area which have not had prior drilling, but prior drilling to the same formations in similar field(s) within the same geologic basin indicates there is a potential for 100 ppm or more of H_2S in the gas stream.

W. "Zones which cannot reasonably be expected to contain H_2S" means geological formations in the area which have not had prior drilling, but prior drilling to the same formations in similar field(s) within the same geologic basin indicates there is not a potential for 100 ppm or more of H_2S in the gas stream.

III. Requirements.

The requirements of this Order are the minimum acceptable standards with regard to H_2S operations. However, the authorized officer may, after consideration of all appropriate factors, require reasonable and necessary measures that may in some cases, vary from those required by this Order that he/she determines to be necessary to protect public health and safety, the environment, or to maintain control of the well to prevent waste of Federal mineral resources. Such additional requirements may be subject to review pursuant to 43 CFR 3165.3.

A. Applications, Approvals, and Reports.

1. Drilling

For proposed drilling operations where formations will be penetrated which have zones known to contain or which could reasonably be expected to contain concentrations of H_2S of 100 ppm or more, a H_2S Drilling Operations Plan and if the applicability criteria in section III.B.1 are met, a Public Protection Plan as outlined in section III.B.2.b. shall be submitted as part of the Application for Permit to Drill (APD) (refer to Oil and Gas Order No. 1, Section III.G.). Failure to submit either the H_2S Drilling Operations Plan or the Public Protection Plan when required by this Order shall result in an incomplete APD pursuant to 43 CFR 3162.3–1 and the APD shall not be approved by the authorized officer.

The H_2S Drilling Operations Plan shall fully describe the manner in which the requirements and minimum standards in section III.C. shall be met and implemented. As a minimum, the following must be submitted in the H_2S Drilling Operations Plan:

a. Statement of certification that all personnel shall receive proper H_2S training in accordance with section III.C.3.a.

b. A legible well site diagram of accurate scale [may be included as part of the Well Site Layout as required by Onshore Order No. 1, section III.G.4.b.(9)] showing the following:

i. Drill rig orientation

ii. Prevailing wind direction

iii. Terrain of surrounding area

iv. Location of all briefing areas (designate primary briefing area)

v. Location of access road(s) (including secondary egress)

vi. Location of flare line(s) and pit(s)

vii. Location of caution and/or danger signs

viii. Location of wind direction indicators

c. A complete description of the following H_2S safety equipment/systems and their use:

i. Well control equipment.

—Flare line(s) and means of ignition

—Remote controlled choke

—Flare gun/flares

—Mud-gas separator and rotating head (if exploratory well)

ii. Protective equipment for essential personnel.

—Location, type, storage and maintenance of all working and escape breathing apparatus

—Means of communication when using protective breathing apparatus

iii. H_2S detection and monitoring equipment.

—Permanent H_2S sensors and associated audible/visual alarm(s)

—Portable H_2S and $S0_2$ monitor(s)

iv. Visual warning systems.

—Wind direction indicators

—Caution/danger sign(s) and flag(s)

v. Mud program.

—Mud system and additives

—Mud degassing system

vi. Metallurgy.

—Metallurgical properties of all tubular goods and well control equipment which could be exposed to H_2S (section III.C.4.c.)

vii. Means of communication from wellsite.

d. Plans for well testing.

2. Production

a. For each existing production facility having an H_2S concentration of 100 ppm or more in the gas stream, the operator

shall calculate and submit to the authorized officer within 180 days of the effective date of this Order, the 100 and, if applicable, the 500 ppm radii of exposure for all facilities to determine if the applicability criteria in section III.B.1. of this Order are met. Radii of exposure calculations shall not be required for oil flowlines. Further, if any of the applicability criteria (section III.B.1.) are met, the operator shall submit a complete Public Protection Plan which meets the requirements of section III.B.2.b. to the authorized officer within 1 year of the effective date of this Order. Production facilities constructed after the effective date of this Order and meeting the above minimum concentration (100 ppm in gas stream) shall report the same information, and if the applicability criteria (section III.B.1.) are met, submit a complete Public Protection Plan (section III.B.2.b.) to the authorized officer within 60 days after completion of production facilities.

Violation: Minor for failure to submit required information.

Corrective Action: Submit required information (radii of exposure and/or complete Public Protection Plan).

Normal Abatement Period: 20 to 40 days.

b. The operator shall initially test the H_2S concentration of the gas stream for each well or production facility and shall make the results available to the authorized officer, upon request.

Violation: Minor.

Corrective Action: Test gas from well or production facility.

Normal Abatemant Period: 20 to 40 days.

c. If operational or production alterations increase the H_2S concentration (i.e., well recompletion, increased GOR's) or the radius of exposure, notification of such changes shall be submitted to the authorized officer within 60 days after identification of the change.

Violation: Minor.

Corrective Action: Submit information to authorized officer.

Normal Abatement Period: 20 to 40 days.

3. Plans and Reports

a. H_2S Drilling Operations Plan(s) or Public Protection Plan(s) shall be reviewed by the operator on an annual basis and a copy of any necessary revisions shall be submitted to the authorized officer upon request.

Violation: Minor.

Corrective Action: Submit information to authorized officer.

Normal Abatement Period: 20 to 40 days.

b. Accidental release of gas containing H_2S or SO_2 that may endanger the public shall be reported to the authorized officer as soon as practicable, but no later than 24 hours following identification of the release.

Violation: Minor.

Corrective Action: Report undesirable event to the authorized officer.

Normal Abatement Period: 24 hours —subsequent violations may result in assessments for failure to comply with a written order of the authorized officer.

B. Public Protection

1. Applicability Criteria

For both drilling/completion/workover and production operations, the H_2S radius of exposure shall be determined on all wells and production facilities. A Public Protection Plan (Section III.B.2.) shall be submitted and special precautions taken when any of the following conditions apply:

a. The 100 ppm radius of exposure is greater than 50 feet and includes any occupied residence, school, church, park, school bus stop, place of business, or other areas where the public could reasonably be expected to frequent;

b. The 500 ppm radius of exposure is greater than 50 feet and includes any part of a Federal, State, County, or municipal road or highway owned and principally maintained for public use; or

c. The 100 ppm radius of exposure is equal to or greater than 3,000 feet where facilities or roads are maintained for direct public access.

Additional specific requirements for drilling/completion/workover or producing operations are described in sections III.C. and III.D. of this Order, respectively.

2. Public Protection Plan

a. Plan Submission/Implementation/Availability—i. A Public Protection Plan providing details of actions to alert and protect the public in the event of a potentially hazardous release of H_2S or SO_2 shall be submitted to the authorized officer as required by Section III.A.1. for drilling or by section III.A.2.a. for producing operations when the applicability criteria established in section III.B.1. of this Order are met. For production, one plan may be submitted for each well, lease, communitization agreement, unit, or field, at the operator's discretion. The Public Protection Plan shall be maintained and updated, in accordance with section III.A.3.a.

ii. The public Protection Plan shall be activated immediately upon detection of release of a potentially hazardous volume of H_2S or SO_2.

Violation: Major

Corrective Action: Immediate implementation of the public protection plan.

Normal Abatement Period: Prompt correction required.

iii. A copy of the Public Protection Plan shall be available at the drilling/completion site for such wells and at the facility, field office, or with the pumper, as appropriate, for producing wells, facilities, and during workover operations.

Violation: Minor.

Corrective Action: Make copy of Plan available.

Normal Abatement Period: 24 hours (drilling/completion), 5 to 7 days (production/workovers).

b. Plan Content. i. The details of the Public Protection Plan may vary according to the site specific characteristics (concentration, volume, terrain, etc.) expected to be encountered and the number and proximity of the population potentially at risk. In the areas of high population density or in other special cases, the authorized officer may require more stringent plans to be developed. These may include public education seminars, mass alert systems, and use of sirens, telephone, radio, and television depending on the number of people at risk and their location with respect to the well site.

ii. The Public Protection Plan shall include:

(a) The responsibilities and duties of key personnel, and instructions for alerting the public and requesting assistance;

(b) A list of names and telephone numbers of residents and individuals responsible for the safety of occupants of buildings within the area of exposure (e.g. school principals, building managers, etc.). The operator shall ensure that those who are at the greatest risk are notified first. The plan shall define when and how people are to be notified in case of an H_2S emergency. Where a well is near a residential area, there shall be prescribed procedures for alerting nearby residents when well control problems become critical, but before an actual release of H_2S takes place;

(c) A telephone call list (including telephone numbers) for requesting assistance from law enforcement, fire department, and medical personnel and Federal and State regulatory agencies, as required. Necessary information to be communicated and the emergency responses that may be required shall be listed. This information shall be based on previous contacts with these organizations;

(d) A legible 100 ppm (or 3,000 feet, if conditions unknown) radius plat of all private and public dwellings, schools, roads, recreational areas, and other areas where the public might reasonably be expected to frequent;

(e) Advance briefings of the people identified in section III.B.2.b.i.(b.), including:

—Hazards of H_2S and SO_2;
—Necessity for an emergency action plan;
—Possible sources of H_2S and SO_2;
—Instructions for reporting a leak to the operator;
—The manner in which the public shall be notified of an emergency; and
—Steps to be taken in case of an emergency, including evacuation of any people or things that may be endangered;

(f) Guidelines for the ignition of the H_2S-bearing gas. The Plan shall designate the title or position of the person(s) who has the authority to ignite the escaping gas and define when, how, and by whom the gas is to be ignited;

(g) Additional measures necessary following the release of H_2S until the release is contained as follows:

—Monitoring of H_2S levels and wind direction in the affected area;
—Maintenance of site security and access control;
—Communication of status of well control; and
—Other necessary measures as required by the authorized officer; and

(h) For production facilities, a description of the detection system(s) utilized to determine the concentration of H_2S released.

C. Drilling/Completion/Workover Requirements

1. General

a. A copy of the H_2S Drilling Operations Plan shall be available at the well site when this Order becomes effective.

Violation: Minor.

Corrective Action: Make copy of Plan available.

Normal Abatement Period: 24 hours.

b. Initial H_2S training shall be completed and all H_2S related safety equipment shall be installed, tested, and operational when drilling reaches a depth of 500 feet above, or 3 days prior to penetrating (whichever comes first) the first zone containing or reasonably expected to contain H_2S. A specific H_2S operations plan for completion and workover operations will not be required for approval. For completion and workover operations, all required equipment and warning systems shall be operational and training completed prior to commencing operations.

Violation: Major.

Corrective Action: Implement H_2S operational requirements, such as completion of training and/or installation, repair, or replacement of equipment, as necessary.

Normal Abatement Period: Prompt correction required.

c. If H_2S was not anticipated at the time the APD was approved, but is encountered in excess of 100 ppm, the following measures shall be taken:

(i) the operator shall immediately ensure control of the well, suspend drilling ahead operations (unless detrimental to well control), and obtain materials and safety equipment to bring the operations into compliance with the applicable provisions of this Order.

Violation: Major.

Corrective Action: Implement H_2S operational requirements, as applicable.

Normal Abatement Period: Prompt correction required.

ii. The operator shall notify the authorized officer of the event and the mitigating steps that have or are being taken as soon as possible, but no later than the next business day. If said notification is subsequent to actual resumption of drilling operations, the operator shall notify the authorized officer of the date that drilling was resumed no later than the next business day.

Violation: Minor.

Corrective Action: Notify authorized officer.

Normal Abatement Period: 24 hours.

iii. It is the operator's responsibility to ensure that the applicable requirements of this Order have been met prior to the resumption of drilling ahead operations. Drilling ahead operations will not be suspended pending receipt of a written H_2S Drilling Operations Plan(s) and, if necessary, Public Protection Plan(s) provided that complete copies of the applicable Plan(s) are filed with the authorized officer for approval within 5 working days following resumption of drilling ahead operations.

Violation: Minor.

Corrective Action: Submit plans to authorized officer.

Normal Abatement Period: 5 days.

2. Locations.

a. Where practical, 2 roads shall be established, 1 at each end of the location, or as dictated by prevailing winds and terrain. If an alternate road is not practical, a clearly marked footpath shall be provided to a safe area. The purpose of such an alternate escape route is only to provide a means of egress to a safe area.

Violation: Major.

Corrective Action: Designate or establish an alternate escape route.

Normal Abatement Period: 24 hours.

b. The alternate escape route shall be kept passable at all times.

Violation: Major.

Corrective Action: Make alternate escape route passable.

Normal Abatement Period: 24 hours.

c. For workovers, a secondary means of egress shall be designated.

Violation: Minor.

Corrective Action: Designate secondary means of egress.

Normal Abatement Period: 24 hours.

3. Personnel Protection

a. Training Program. The operator shall certify at the time the APD or Sundry Notice is submitted that all personnel who will be working at the wellsite will be properly trained in H_2S drilling and contingency procedures in accordance with the general training requirements outlined in the American Petroleum Institute's (API) *Recommended Practice (RP) 49 (April 15, 1987 or subsequent editions) for Safe Drilling of Wells Containing Hydrogen Sulfide, Section 2.* The operator also shall certify that the training will be accomplished prior to a well coming under the terms of this Order (i.e., 3 days or 500 feet of known or probable H_2S zone). In addition to the requirements of API–RP49, a minimum of an initial training session and weekly H_2S and well control drills for all personnel in each working crew shall be conducted. The initial training session for each well shall include a review of the site specific Drilling Operations Plan and, if applicable, the Public Protection Plan.

Violation: Major.

Corrective Action: Train all personnel and conduct drills.

Normal Abatement Period: Prompt correction required.

i. All training sessions and drills shall be recorded on the driller's log or its equivalent.

Violation: Minor.

Corrective Action: Record on driller's log or equivalent.

Normal Abatement Period: 24 hours.

ii. For drilling/completion/workover wells, at least 2 briefing areas shall be designated for assembly of personnel during emergency conditions, located a minimum of 150 feet from the well bore and 1 of the briefing areas shall be upwind of the well at all times. The briefing area located most normally upwind shall be designated as the "Primary Briefing Area."

Violation: Major.

Corrective Action: Designate briefing areas.

Normal Abatement Period: 24 hours.

iii. One person (by job title) shall be designated and identified to all on-site personnel as the person primarily responsible for the overall operation of the on-site safety and training programs.

Violation: Major.

Corrective Action: Designate safety responsibilities.

Normal Abatement Period: 24 hours.

b. Protective Equipment. i. The operator shall ensure that a proper respiratory protection equipment program is implemented, in accordance with the American National Standards Institute (ANSI) Standard Z.88.2–1980 *"Practices for Respiratory Protection."* Proper protective breathing apparatus shall be readily accessible to all essential personnel on a drilling/completion/workover site. Said equipment shall be provided for both escape and working in the H_2S environment to maintain or regain control of the well. For working equipment those essential personnel shall be able to obtain a continuous seal to the face with the equipment. The operator shall ensure that service companies have the proper respiratory protection equipment when called to the location. Lightweight, escape-type, self-contained breathing apparatus with a minimum, of 5 minute rated supply shall be readily accessible at a location for the derrickman and at any other location(s) where escape from an H_2S contaminated atmosphere would be difficult.

Violation: Major.

Corrective Action: Implement plan or acquire, repair, or replace equipment, as necessary.

Normal Abatement Period: Prompt correction required.

ii. Storage and maintenance of protective breathing apparatus shall be planned to ensure that at least 1 working apparatus per person is readily available for all essential personnel.

Violation: Major.

Corrective Action: Acquire or rearrange equipment, as necessary.

Normal Abatement Period: Prompt correction required.

iii. The following additional safety equipment shall be available for use:

(a) Effective means of communication when using protective breathing apparatus;

(b) Flare gun and flares to ignite the well;

(c) Telephone, radio, mobile phone, or any other device that provides communication from a safe area at the rig location, where practical.

Violation: Major.

Corrective Action: Acquire, repair, or replace equipment.

Normal Abatement Period: 24 hours.

c. H_2S Detection and Monitoring Equipment. i. Each drilling/completion site shall have an H_2S detection and monitoring system that automatically activates visible and audible alarms when the ambient air concentration H_2S reaches the threshold limits of 10 and 15 ppm in air, respectively. The sensors shall have a rapid response time and be capable of sensing a minimum of 10 ppm of H_2S in ambient air, with at least 3 sensing points located at the shale shaker, rig floor, and bell nipple for a drilling site and the cellar, rig floor, and circulating tanks or shale shaker for a completion site. The detection system shall be installed, tested, and maintained in accordance with the manufacturer's recommendations.

Violation: Major.

Corrective Action: Install, repair, or replace equipment, as necessary.

Normal Abatement Period: Prompt correction required.

ii. All tests of the H_2S monitoring system shall be recorded on the driller's log or its equivalent.

Violation: Minor.

Corrective Action: Record on driller's log or equivalent.

Normal Abatement Period: 24 hours.

iii. For workover operations, 1 operational sensing point shall be located as close to the wellbore as practical. Additional sensing points may be necessary for large and/or long-term operations.

Violation: Major.

Corrective Action: Install, repair, or replace equipment, as necessary.

Normal Abatement Period: Prompt correction required.

d. Visible Warning System. i. Equipment to indicate wind direction at all times shall be installed prior to drilling at prominent locations and shall be visible at all times during drilling operations. At least 2 such wind direction indicators (i.e., windsocks, windvanes, pennants with tailstreamers, etc.) shall be located at separate elevations (i.e., near ground level, rig floor, and/or treetop height). At least 1 wind direction indicator shall be clearly visible from all principal working areas at all times so that wind direction can be easily determined. For completion/workover operations, 1 wind direction indicator shall suffice, provided it is visible from all principal working areas on the location. In addition, a wind direction indicator at each of the 2 briefing areas shall be provided if the wind direction indicator(s) previously required in this paragraph are not visible from the briefing areas.

Violation: Minor.

Corrective Action: Install, repair, move, or replace wind direction indicator(s), as necessary.

Normal Abatement Period: 24 hours.

ii. At any time when the terms of this Order are in effect, operational caution or danger sign(s) shall be displayed along all controlled accesses to the site.

Violation: Major.

Corrective Action: Erect appropriate signs.

Normal Abatement Period: 24 hours.

iii. Each sign shall be painted a high-visibility red, black and white, or yellow with black lettering.

Violation: Minor.

Corrective Action: Replace or alter sign, as necessary.

Normal Abatement Period: 5 to 20 days.

iv. The signs shall be legible and large enough to be read by all persons entering the wellsite and be placed a safe distance (200–300 feet) from the wellsite.

Violation: Major.

Corrective Action: Replace, alter, or move sign, as necessary.

Normal Abatement Period: 24 hours.

v. The sign(s) shall read:

DANGER—POISON GAS—
HYDROGEN SULFIDE

and in smaller lettering:

Do Not Approach If Red Flag is Flying

or equivalent language if approved by the authorized officer.

Where appropriate, bilingual or multilingual danger sign(s) shall be used.

Violation: Minor.

Corrective Action: Alter sign(s) as necessary.

Normal Abatement Period: 5 to 20 days.

vi. All sign(s) and, when appropriate, flag(s) shall be visible to all personnel approaching the location under normal lighting and weather conditions.

Violation: Major.

Corrective Action: Erect or move sign(s) and/or flag(s), as necessary.

Normal Abatement Period: 24 hours

vii. When H_2S is detected in excess of 10 ppm at any detection point, red flags shall be displayed, all non-essential personnel shall be moved to a safe area, and essential personnel (i.e., those necessary to maintain control of the well) shall wear protective breathing apparatus.

Violation: Major.

Corrective Action: Display red flag, move non-essential personnel to a safe area, and mask-up essential personnel.

Normal Abatement Period: Prompt correction required.

4. Operating Procedures and Equipment

a. General Operations. Drilling/completion/workover operations in H_2S areas shall be subject to the following requirements:

i. If H_2S-bearing zones in excess of 100 ppm are encountered while drilling with air, gas, mist, other non-mud circulating mediums or aerated mud, the well shall be killed with a water or oil-based mud and mud shall be used thereafter as the circulating medium for continued drilling.

Violation: Major.

Corrective Action: Convert to appropriate fluid medium.

Normal Abatement Period: Prompt correction required.

ii. A flare system shall be designed and installed to safely gather and burn H_2S-bearing gas.

Violation: Major.

Corrective Action: Install flare system.

Normal Abatement Period: Prompt correction required.

iii. Flare lines shall be located as far from the operating site as feasible and in a manner to compensate for wind changes. The flare line(s) mouth(s) shall be located not less than 150 feet from the wellbore unless otherwise approved by the authorized officer. Flare lines shall be straight unless targeted with running tees.

Violation: Minor.

Corrective Action: Adjust flare line(s) as necessary.

Normal Abatement Period: 24 hours.

iv. The flare system shall be equipped with a suitable and safe means of ignition.

Violation: Major.

Corrective Action: Install, repair, or replace equipment, as necessary.

Normal Abatement Period: 24 hours.

v. Where noncombustible gas is to be flared, the system shall be provided supplemental fuel to maintain ignition.

Violation: Major.

Corrective Action: Acquire supplemental fuel.

Normal Abatement Period: 24 hours.

vi. At any wellsite where SO_2 may be released as a result of flaring of H_2S during drilling, completion, or workover operations, the operator shall make SO_2 portable detection equipment available for checking the SO_2 level in the flare impact area (2 ppm or greater of SO_2).

Violation: Minor.

Corrective Action: Acquire, repair, or replace equipment as necessary.

Normal Abatement Period: 24 hours to 3 days.

vii. If the impact area reaches a sustained ambient threshold level of 2 ppm or greater of SO_2 in air and includes any occupied residence, school, church, park, or place of business, or other area where the public could reasonably be expected to frequent, the Public Protection Plan shall be implemented.

Violation: Major.

Corrective Action: Contain SO_2 release and/or implement Public Protection Plan.

Normal Abatement Period: Prompt correction required.

viii. A remote controlled choke shall be installed for all H_2S drilling and, where feasible, for completion operations. A remote controlled valve may be used in lieu of this requirement for completion operations.

Violation: Major.

Corrective Action: Install, repair, or replace equipment, as necessary.

Normal Abatement Period: Prompt correction required.

ix. Mud-gas separators and rotating heads shall be installed and operable for all exploratory wells.

Violation: Major.

Corrective Action: Install, repair, or replace equipment, as necessary.

Normal Abatement Period: Prompt correction required.

b. Mud Program. i. A pH of 10 or above in a fresh water-base mud system shall be maintained to control corrosion and prevent sulfide embrittlement, unless other formation conditions justify a lesser pH level.

Violation: Major.

Corrective Action: Adjust pH.

Normal Abatement Period: Prompt correction required.

ii. Drilling mud containing H_2S gas shall be degassed in accordance with API's RP-49, § 5.14, at an optimum location for the rig configuration. These gases shall be piped into the flare system.

Violation: Major.

Corrective Action: Install, repair, or replace equipment, as necessary.

Normal Abatement Period: 24 hours.

iii. Sufficient quantities of mud additives shall be maintained on location to scavenge and/or neutralize H_2S where formation pressures are unknown.

Violation: Major.

Corrective Action: Obtain proper mud additives.

Normal Abatement Period: 24 hours.

c. Metallurgical Equipment. All equipment that has the potential to be exposed to H_2S shall be suitable for H_2S service. Equipment which shall meet these metallurgical standards include the drill string, casing, wellhead, blowout preventer assembly, casing head and spool, rotating head, kill lines, choke, choke manifold and lines, valves, mud-gas separators, drill-stem test tools, test units, tubing, flanges, and other related equipment.

To prevent stress, corrosion, cracking, and/or H_2S embrittlement, the equipment shall be constructed of material whose metallurgical properties are chosen with consideration for both an H_2S working environment and the anticipated stresses. The metallurgical properties of the materials used shall conform to National Association of Corrosion Engineers (NACE) Standard MR-01-75, *Material Requirement, Sulfide Stress Cracking Resistant Metallic Material for Oil Field Equipment.* These metallurgical properties include the grade of steel, the processing method (rolled, normalized, tempered, and/or quenched), and the resulting strength properties. The working environment considerations include the H_2S concentration, the well fluid pH, and the wellbore pressures and temperatures. Elastomers, packing, and similar inner parts exposed to H_2S shall be resistant at the maximum anticipated temperature of exposure. The manufacturer's verification of design for use in an H_2S environment shall be sufficient verification of suitable service in accordance with this Order.

Violation: Major.

Corrective Action: Install, repair, or replace appropriate equipment, as necessary.

Normal Abatement Period: Prompt correction required.

d. Well Testing in an H_2S Environment. Testing shall be performed with a minimum number of personnel in the immediate vicinity which are necessary to safely and adequately operate the test equipment. Except with prior approval by the authorized officer, the drill-stem testing of H_2S zones shall be conducted only during daylight hours and formation fluids shall not be flowed to the surface (closed chamber only).

Violation: Major.

Corrective Action: Terminate the well test.

Normal Abatement Period: Prompt correction required.

D. Production Requirements.

1. General

a. All existing production facilities which do not currently meet the requirements and minimum standards set forth in this section shall be brought into conformance within 1 year after the effective date of this Order.

Violation: Minor.

Corrective Action: Bring facility into compliance.

Normal Abatement Period: 60 days.

b. Production facilities constructed after the effective date of this Order shall be designed, constructed, and operated to meet the requirements and minimum standards set forth in this section. Any variations from the standards or established time frames shall be approved by the authorized officer in accordance with the provisions of section IV. of this Order. Except for storage tanks, a determination of the radius of exposure for all production facilities shall be made in the manner prescribed in section II.Q. of this Order.

Violation: Minor.

Corrective Action: Bring facility into compliance.

Normal Abatement Period: 60 days.

2. Storage Tanks.

Storage tanks containing produced fluids and utilized as part of a production operation and operated at or near atmospheric pressure, where the vapor accumulation has an H_2S concentration in excess of 500 ppm in the tank, shall be subject to the following:

a. No determination of a radius of exposure need be made for storage tanks.

b. All stairs/ladders leading to the top of storage tanks shall be chained and/or marked to restrict entry. For any storage tank(s) which require fencing (Section III.D.2.f.), a danger sign posted at the locked gate(s) shall suffice in lieu of this requirement.

Violation: Minor.

Corrective Action: Chain or mark stair(s)/ladder(s) or post sign, as necessary.

Normal Abatement Period: 5 to 20 days.

c. A danger sign shall be posted on the storage tank(s) or within 50 feet of the facility to alert the public of the potential H_2S danger. For any storage tank(s) which require fencing (section III.D.2.f.), a danger sign posted at the locked gate(s) shall suffice in lieu of this requirement.

Violation: Minor.

Corrective Action: Post or move sign(s), as necessary.

Normal Abatement Period: 5 to 20 days.

d. The sign(s) shall be painted in high-visibility red, black, and white. The sign(s) shall read:

DANGER—POISON GAS-HYDROGEN SULFIDE

or equivalent language if approved by the authorized officer. Where appropriate, bilingual or multilingual warning signs shall be used.

Violation: Minor.

Corrective Action: Post, move, replace, cr alter sign(s), as necessary.

Normal Abatement Period: 20 to 40 days.

e. At least 1 permanent wind direction indicator shall be installed so that wind direction can be easily determined at the facility or location.

Violation: Minor.

Corrective Action: Install, repair, or replace wind direction indicator, as necessary.

Normal Abatement Period: 20 to 40 days.

f. A minimum 5-foot chain-link, 5-strand barbed wire, or comparable type fence and locked gate(s) that restrict(s) public access shall be required when storage tanks are located within 1/4 mile of or contained inside a city or incorporated limits of a town or within 1/4 mile of an occupied residence, school, church, park, playground, school bus stop, place of business, or where the public could reasonably be expected to frequent.

Violation: Minor.

Corrective Action: Install, repair, or replace fence and/or lock gate(s), as necessary.

Normal Abatement Period: 20 to 40 days.

3. Production Facilities

Production facilities containing 100 ppm or more of H_2S in the gas stream shall be subject to the following:

a. Danger signs as specified in section III.D.2.d. of this Order shall be posted on or within 50 feet of each production facility to alert the public of the potential H_2S danger. In the event the storage tanks and production facilities are located at the same site, 1 such danger sign shall suffice. Further, for any facilities which require fencing (section III.D.2.f.), 1 such danger sign at the locked gate(s) shall suffice in lieu of this requirement.

Violation: Minor.

Corrective Action: Post, move, or alter sign(s), as necessary.

Normal Abatement Period: 5 to 20 days.

b. Danger signs, as specified in section III.D.2.d. of this Order, shall be required for well flowlines and lease gathering lines that carry H_2S gas. Placement shall be where said lines cross public or lease roads. The signs shall be legible and shall contain sufficient additional information to permit a determination of the owner of the line.

Violation: Minor.

Corrective Action: Post, move, or alter sign(s), as necessary.

Normal Abatement Period: 5 to 20 days.

c. Fencing, as specified in section III.D.2.f., shall be required when production facilities are located within ¼ mile of or contained inside a city or incorporated limits of a town or within ¼ mile of an occupied residence, school, church, park, playground, school bus stop, place of business, or other area where the public could reasonably be expected to frequent. Flowlines are exempted from this additional fencing requirement.

Violation: Minor.

Corrective Action: Install, repair, or replace fence, and/or lock gate(s), as necessary.

Normal Abatement Period: 20 to 40 days.

d. Wind direction indicator(s) as specified in section III.D.2.e. of this Order shall be required. In the event the storage tanks and production facilities are located at the same site, 1 such indicator shall suffice. Flowlines are exempt from this requirement.

Violation: Minor.

Corrective Action: Install, repair, or replace wind direction indicator(s), as necessary.

Normal Abatement Period: 20 to 40 days.

e. All wells, unless produced by artificial lift, shall possess a secondary means of immediate well control through the use of appropriate christmas tree and/or downhole completion equipment. Such equipment shall allow downhole accessibility (reentry) under pressure for permanent well control operations. If the applicability criteria stated in Section III.B.1. of this Order are met, a minimum of 2 master valves shall be installed.

Violation: Minor.

Corrective Action: Install, repair, or replace equipment, as necessary.

Normal Abatement Period: 20 to 40 days.

f. All well equipment shall be chosen with consideration for both a H_2S working environment and anticipated stresses. NACE Standard MR–01–75 shall be used for metallic equipment selection and, if applicable, adequate protection by chemical inhibition or other such method that controls or limits the corrosive effects of H_2S shall be used.

Violation: Minor.

Corrective Action: Install, repair, or replace equipment, as necessary.

Normal Abatement Period: 20 to 40 days.

g. Where the 100 ppm radius of exposure for H_2S includes any occupied residence, place of business, school, or other inhabited structure or any area where the public may reasonably be

expected to frequent, the operator shall install automatic safety valves or shutdowns at the wellhead.

Violation: Minor.

Corrective Action: Install, repair, or replace equipment, as necessary.

Normal Abatement Period: 20 to 40 days.

h. At any production facility where the ambient H_2S concentration is in excess of 10 ppm at 50 feet from the facility as measured at ground level under calm (1 mph) conditions, the operator shall collect or reduce vapors from the system, and they shall be sold, beneficially used, reinjected, or flared provided terrain and conditions permit.

Violation: Major, if a health or safety problem to the public is imminent, otherwise minor.

Corrective Action: Bring facility into compliance.

Normal Abatement Period: 3 days for major, 30 days for minor.

i. If the ambient concentration of H_2S or SO_2 from a production facility which is venting or flaring H_2S or where SO_2 exceeds 10 ppm or 2 ppm, respectively, at any of the following locations, the operator shall modify the facility as specified by the authorized officer so that it does not present a public health or safety hazard. The locations include any occupied residence, school, church, park, playground, school bus stop, place of business, or other areas where the public could reasonably be expected to frequent.

Violation: Major.

Corrective Action: Repair facility to bring into compliance.

Normal Abatement Period: Prompt correction required.

4. Public Protection.

When conditions as defined in section III.B.1. of this Order exist, a Public Protection Plan for producing operations shall be submitted to the authorized officer in accordance with section III.B.2.a. of this Order which includes the provisions of section III.B.2.b.

IV. Variances from Requirements

An operator may request the authorized officer to approve a variance from any of the requirements prescribed in section III hereof. All such requests shall be submitted in writing to the appropriate authorized officer and provide information as to the circumstances which warrant approval of the variance(s) requested and the proposed alternative methods by which the related requirement(s) or minimum standard(s) are to be satisfied. The authorized officer, after considering all relevant factors, may approve the requested variance(s) if it is determined that the proposed alternative(s) meets or exceeds the objectives of the applicable requirement(s) or minimum standard(s).

Attachments

Sections from 43 CFR Subparts 3163 and 3165 (Not included with **Federal Register** publication).

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BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-46; DA 89-463]

FM Broadcast Service; Policies to Encourage Interference Reduction Between AM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Commission grants a motion for extension of time to file comments on a pending proposal to develop a formal procedure by which AM broadcast station licensees may reduce interstation interference. The extension was requested by the National Association of Broadcasters ("NAB") and is necessary to allow NAB and other interested parties additional time for discussion and preparation of formal comments.

DATES: Comments must be filed on or before June 7, 1989 and replies must be filed on or before June 30, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: B.C. "Jay" Jackson, Jr., Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: Following is a synopsis of the Commission's *Order Granting Motion for Extension of Time for Filing Comments* in MM Docket No. 89-46, adopted April 25, 1989 and released April 2, 1989. The full text of the action is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this action may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

On March 17, 1989, the Commission released a *Notice of Proposed Rule Making (Notice)* in the captioned matter (54 FR 11972, March 23, 1989). In this *Notice*, public comment is invited on a proposed formal procedure by which AM licensees may reduce interstation interference, and on certain changes in the AM processing rules that would facilitate such a procedure. Comments on the proposals were to be filed on or before May 8, 1989, and replies on or before May 23, 1989.

On April 20, 1989, the National Association of Broadcasters ("NAB") filed a motion requesting that the comment period be extended by 30 days. In support of this request, NAB states that an extension of time would allow it and other parties to fully evaluate the issues presented in the *Notice*. In this connection, NAB notes that its 67th Annual Convention and International Exposition and 43rd Annual Broadcast Engineering Conference ("Convention") is being held from April 28 through May 2, 1989, and that this Convention will require the full-time participation of its legal staff between April 27 and May 4, 1989. NAB asserts that the May 8, 1989 comment deadline is inadequate for it to prepare comments in this proceeding. NAB also argues that the Convention will provide an opportunity for interested parties to discuss the matters presented in the Notice Allowing these parties additional time to prepare comments after the Convention will thus result in providing to the Commission a fuller record upon which to base a decision.

It is the policy of the Commission that extensions of time in rule making proceedings shall not be routinely granted (47 CFR 1.46). However, in this case the extension appears to be justified. The comments of NAB, which represents a major portion of the broadcast industry, will be particularly valuable to the Commission in reaching an appropriate technical decision in this proceeding. Allowing additional time for decision among interested parties will enhance the value of their expected filings. Good cause having been shown, the requested 30 day extension will be granted.

Accordingly, *It is ordered* That the Motion for Extension of Time submitted by the National Association of Broadcasters is granted and that the dates for filing comments and replies are extended to June 7, 1989 and June 30, 1989, respectively. This action is taken pursuant to authority found in 47 U.S.C. 4(i) and 303(r) and 47 CFR 0.204(b), 0.283, 1.45 and 1.46.

Federal Communications Commission.

Alex D. Felker,

Chief, Mass Media Bureau.

[FR Doc. 89-11629 Filed 5-15-89; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 54, No. 93
Tuesday, May 16, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 89-071]

Notice of Receipt of a Permit Application for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an application for a permit to release genetically engineered organisms into the environment is being reviewed by the Animal and Plant Health Inspection Service. The application has been submitted in accordance with 7 CFR Part 340, which regulates the introduction of certain genetically engineered organisms and products.

FOR FURTHER INFORMATION CONTACT: Mary Petrie, Document Control Officer, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permit Unit, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 847, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR Part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) in the United States, certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following application to release genetically engineered organisms into the environment:

Application No.	Applicant	Date received	Organism	Field test location
89-097-01	Iowa State University	04-07-89	Tobacco plants genetically engineered to express chimeric proteinase inhibitor II promoter-Chloramphenical acetyl transferase gene.	Iowa.

Done at Washington, DC this 10th day of May 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-11688 Filed 5-15-89; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration
Title: Special Access/Special Regime Export Declaration
Form Numbers: Agency—ITA-370P—OMB—0625-0179
Type of Request: Revision of a currently approved collection
Burden: 175,000 respondents; 15,416 reporting hours
Average Hours per Response: 3 to 18 minutes
Needs and Uses: The Special Access and Special Regime Programs have been established to provide increased access to the United States market for textile products assembled abroad from fabric formed and cut in the United States. The information being collected on Form ITA-370P is being used by the Committee for the Implementation of Textile Agreements (CITA) and the U.S. Customs Service in two ways: (1) To determine whether merchandise exported from a participating Caribbean country or Mexico is properly certified as entitled to entry under the Special Access Program or the Special Regime and (2) to conduct audits to determine whether U.S. formed and cut fabric was used to produce the final product
Affected Public: Businesses or other for profit; small businesses or organizations
Frequencey: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Donald Arbuckle, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Donald Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 10, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-11673 Filed 5-15-89; 8:45 am]

BILLING CODE 3510-CW-M

Foreign-Trade Zones Board

[Docket 9-89]

Foreign-Trade Zone 94—Laredo, Texas; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the

Board) by the City of Laredo, Texas, grantee of Foreign-Trade Zone 94, requesting authority to expand the zone to include additional acreage in the Laredo area, within the Laredo Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 28, 1989.

The Laredo zone was approved on November 22, 1983 (Board Order 235, 48 FR 53737, 11/29/83), and presently covers 212 acres at four sites in the Laredo area. Sites 1 and 2 (142 acres) are located on publicly owned property at the Laredo International Airport (LIA Site). Site 3 (20 acres), owned by the Texas-Mexican Railway, is located on Highway 359 in Webb County. Site 4 (50 acres), owned by Killam Oil Company (Killam Site), is located at 12800 Old Mines Road about two miles northwest of the city limits. This site was approved as part of a boundary modification in May 1988.

The grantee has requested authority to expand the airport site to include the entire 1,600-acre airport complex, and to expand Site 4 to include the entire 1,400-acre Killam tract. The authority is requested subject to a condition that would limit the total area eligible for activation to 500 acres at the LIA Site and to 550 acres at the Killam Site. Manufacturing activity would require further FTZ Board approval on a case-by-case basis.

The expansion is being requested to provide greater flexibility in locating prospective zone users at both sites in an effort to assist the City's economic development efforts.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Paul Rimmer, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 San Felipe Street, Houston, Texas 77057–3012; and Colonel John E. Schaufelberger, District, Engineer, U.S. Army Engineer District Fort Worth, P.O. Box 17300, Forth Worth, Texas 76102–0300.

Comments concerning the proposed expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before July 5, 1989.

A copy of the application is available for public inspection at each of the following locations:

Office of the District Director, U.S. Customs Service, Lincoln Juarez Bridge, Administration Building #2, Laredo, Texas 78044–3130

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., Room 2835, Washington, DC 20230.

Dated: May 9, 1989.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89–11621 Filed 5–15–89; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; Michigan Department of Public Health

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in room 2841, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 89–131. *Applicant:* Michigan Department of Public Health, Center for Environmental Health Sciences, 3500 North Logan Street, Lansing, MI 48909. *Instrument:* Mass Spectrometer System, Model TS–250. *Manufacturer:* VG Analytical Ltd., United Kingdom. *Intended Use:* The instrument will be used for conformational analysis of analytical data generated from a gas chromatography laboratory and for performing chemical structure elucidation on previously unidentified compounds extracted from Great Lakes sport fish (body flesh) and sport fishermen and fish eaters (adipose and blood serum). *Application Received by Commissioner of Customs:* April 10, 1989.

Docket Number: 89–132. *Applicant:* University of California, Los Angeles, 451 Hilgard Ave., Los Angeles, CA 90049. *Instrument:* Streak Camera, Model IMACON 500. *Manufacturer:* Hadland Photonics, United Kingdom. *Intended Use:* The instrument will be used in experiments to determine growth rate, saturation amplitude, and decay of plasma waves. In addition, the instrument will be used in the courses Quantum Electronics, I, II, III, and IV and Plasma Waves and Instabilities for graduate research and training leading to the M.S. and Ph.D. degrees. *Application Received by Commissioner of Customs:* April 14, 1989.

Docket Number: 89–133. *Applicant:* The University of Texas at Austin, U.T. Central Vouchering, 2200 Comal Street, Austin, TX 78722. *Instrument:* Circular Dichroism Spectropolarimeter, Model J–20A and Optical Rotatory Dispersion Instrument. *Manufacturer:* JASCO Inc., Japan. *Intended Use:* The instrument will be used for spectroscopic studies and kinetic measurements of dimeric indole alkaloids and the stereochemistry at their connecting plant. The objectives of the experiments conducted are to determine the absolute stereochemistry relationships in the anticancer agents, and the distortions that are present when these agents bind to tubulin. *Application Received by Commissioner of Customs:* April 14, 1989.

Docket Number: 89–134. *Applicant:* University of Hawaii, Hawaii Institute of Geophysics, 2525 Correa Road, HIG #114, Honolulu, HI 96822. *Instrument:* XY Multichannel Spectrometer System. *Manufacturer:* DILOR, France. *Intended Use:* The instrument will be used for determining Raman scattering spectra of crystalline specimens of various natural and synthetic minerals (e.g., silicates, oxides, titanates and nitrates), silicate glasses and melts under high pressure and temperature conditions using diamond-anvil pressure cell. In addition, the instrument will be used for educational purposes in the courses: Physics of the Earth's Interior, High-Pressure Mineralogy, Solid State Geophysics, and Topics in High Pressure-Temperture Research. *Application Received by Commissioner of Customs:* April 14, 1989.

Docket Number: 89–135. *Applicant:* University of Alaska, Fairbanks, 3354 College Road, Fairbanks, AK 99709. *Instrument:* Isotope Ratio Mass Spectrometer, Model SIRA Series II. *Manufacturer:* V.G. Instruments, United Kingdom. *Intended Use:* The instrument will be used for studies of stable isotope ratios in ecosystems and experimental systems during investigations of the natural processes governing isotope distributions in biological/geological systems. The project goals range from

assessing the role of salmon carcasses in the productivity of river fisheries to the role of peat in controlling global CO_2 levels. In addition, the instrument will be used in a graduate level course to provide biology and oceanography students with the skills necessary for designing research experiments using natural isotope abundances. *Application Received by Commissioner of Customs:* April 17, 1989.

Docket Number: 89-136. *Applicant:* Vanderbilt University, Chemistry Department, 5607 Stevenson Court, Nashville, TN 37235. *Instrument:* Rapid Kinetics Spectrometer Accessory, Model RX. 1000. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* The instrument will be used in Physical Chemistry laboratory courses to demonstrate the principles of chemical kinetics through experiments. *Application Received by Commissioner of Customs:* April 18, 1989.

Docket Number: 89-137. *Applicant:* Rensselaer Polytechnic Institute, 110 8th Street, Troy, NY 12180. *Instrument:* Fabry-Perot Interferometer. *Manufacturer:* Queensgate Instruments Ltd., United Kingdom. *Intended Use:* The instrument will be attached to the large telescopes at Palomar Observatory for astronomical observations. Of specific interest are the emission lines from the interstellar gas in our galaxy and other galaxies. *Application Received by Commissioner of Customs:* April 19, 1989.

Frank W. Creek,

Director, Statutory Import Programs Staff.

[FR Doc. 89-11622 Filed 5-15-89; 8:45 am]

BILLING CODE 3510-DS-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

May 5, 1989.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Licensing information and copies of patent applications bearing serial numbers with prefix E may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151. All other patent applications may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephoning the NTIS Sales Desk at (703) 487-4650. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 7-123,451 (4,814,192)—Process for Preserving Raw Fruits and Vegetables Using Ascorbic Acid Esters and Compositions Thereof

SN 7-319,795—Ground Contact Implement Soil Penetration Depth Control

SN 7-248,743—Hydrocyclone for Washing Particles in Liquid Suspension

SN 7-270,979—Zinc Treatment for Stabilizing Lightly Processed Fresh Fruits

SN 7-308,219—Cloned Genes Coding for Avian Coccidiosis Antigens Which Induce a Cell-Mediated Immune Response and Method of Producing the Same

SN 7-320,126—A Multiple Embedded Nuclear Polyhedrosis Virus from Celery Looper with Activity Against Lepidoptera

Department of Health and Human Services

SN 6-6-443,118 (4,532,343)—Aromatic Retinoic Acid Analogues

SN 6-599,665 (4,518,609)—Naphtenic and Heterocyclic Retinoic Acid Analogues

SN 6-798,930 (4,817,015)—High Speed Texture Discriminator for Ultrasonic Imaging

SN 7-230,817—Clone-Produced Cell Line for Production of HTLV-I

SN 7-235,907—Esters of 3-Demethylthiocolchicine and N-Acyl Analogs

SN 7-277,708—Evaluative Means for Detecting Inflammatory Reactivity

SN 7-281,778—Liquid Chromatographic Chiral Stationary Phase and Method for the Resolution of Racemic Compounds Using the Same

SN 7-287,664—Horizontal Flow-Through Coil Planet Centrifuge With Multilayer Plural Coils in Eccentric Synchronous Rotation, Suitable For Countercurrent Chromatography

SN 7-292,985—Purification of Human Chorionic Gonadotropin B-Core Molecule and Preparation of Antibodies With Specificity for Same

SN 7-296,019—Method For Producing High Quality Chemical Structure Diagrams

SN 7-273,569—Human Neutrophilic Granulocyte End-Stage Maturation Factor and Its Preparation and Use

SN 7-261,303—A Method to Measure Contact Stress

Department of the Air Force

SN 6-698,725 (4,773,043)—ADCCP Communication Processor

SN 6-741,516 (4,764,438—Solid State Tetrachloroaluminate Storage Battery Having a Transition Metal Chloride Cathode

SN 6-789,794 (4,768,418—Explosive Attenuating Missile Transportation and Storage Rack

SN 6-801,348 (4,783,320)—Rapid Synthesis of Indium Phosphide

SN 6-831,909 (4,764,007)—Glare Susceptibility Tester

SN 7-836,043 (4,805,185)—Triple Cavity Laser

SN 6-864,222 (4,775,831)—In-Line Determination of Presence of Liquid Phase Moisture in Sealed IC Packages

SN 6-867,642 (4,764,973)—Whole Word, Phrase or Number Reading

SN 6-880,246 (4,774,994)—Method and Apparatus for Die Forming Metal Sheets and Extrusions

SN 6-885,103 (4,749,262)—Metal Film Light Modulator

SN 6-913,034 (4,768,693—Canister Opener

SN 6-916,963 (4,764,350)—Method and Apparatus for Synthesizing A Single Crystal Of Indium Phosphide

SN 6-925,959 (4,764,003)—Optical Mirror Coated with Organic Superconducting Material

SN 6-935,362 (4,807,798)—A Method To Produce Metal Matrix Composite Articles From Lean Metastable Beta Titanium Alloys

SN 6-935,363 (4,809,903)—A Method to Produce Metal Matrix Composite Articles From Rich Metastable Beta Titanium Alloys

SN 6-937,957 (4,771,292)—Suspended Antenna with Dual Corona Ring Apparatus

SN 6-940,888 (4,814,844)—Split Two-Phased CCD Clocking Gate Apparatus

SN 6-947,574 (4,754,176)—Miniature High Voltage Solid State Relay

SN 7-007,212 (4,776,745)—Substrate Handling System

SN 7-011,656 (4,801,071)—An Apparatus and Method For Smoldering and Contouring Foil E-Beam Windows

SN 7-024,490 (4,806,848)—Compressor Blade Clearance Measurement System

SN 7-032,810 (4,789,642)—Method for Fabricating Low Loss Crystalline

Silicon Waveguides by Dielectric Implantation
SN 7-035,332 (4,754,312)—Integratable Differential Light Detector
SN 7-036,822 (4,787,691)—Electro-Optical Silicon Devices
SN 7-041,956 (4,809,771)—LiH Thermal Storage Capsule/Heat Exchanger
SN 7-042,075 (4,787,935)—Method for Making Centrifugally Cooled Powder
SN 7-045,075 (4,787,943)—Dispersion Strengthened Aluminum-Based Alloy
SN 7-053,986 (4,774,405)—Real Time Autocollimator Device for Aligning Two Surfaces in Parallel
SN 7-059,641 (4,765,193)—Oxygen System Analyzer
SN 7-060,881 (4,792,732)—Radio Frequency Plasma Generator
SN 7-066,290 (4,803,701)—Digital Detection Circuit
SN 7-070,276 (4,762,679)—Billet Conditioning Technique for Manufacturing Powder Metallurgy Preforms
SN 7-074,802 (4,790,137)—Aircraft Engine Outer Duct Mounting Device
SN 7-084,784 (4,785,115)—Benzazole Substituted Terephtalic Acid Monomers
SN 7-087,857 (4,763,529)—In-Situ Beta Alumina Stress Simulator
SN 7-095,062 (4,786,548)—Low Loss Radar Window for Reentry Vehicle
SN 7-112,162 (4,781,502)—Anti-Rotation Locking Device for Fasteners
SN 7-125,633 (4,798,214)—Stimulator for Eye Tracking Oculometer
SN 7-128,006 (4,809,301)—Detection Apparatus for BI-Phase Signals
SN 7-131,299 (4,767,985)—Claw Grip Contact Probe for Flat Packs
SN 7-142,472 (4,786,376)—Electrodeposition Without Internal Deposit Stress
SN 7-145,155 (4,779,824)—High Speed CDS Extraction System

Department of the Army

SN 6-880,476 (4,808,598)—Method and Compositions for Inducing Low Levels of Methemoglobinemia for Protection Against Cyanide Poisoning
SN 7-087,365 (4,791,135)—Novel Antimalarial Dihydroartemisinin Derivatives
SN 7-155,405 (4,805,468)—Fiber Collection and Storage Device
SN 7-300,508—Method of Making a Millimeter Wave Monolithic Integrated Circuit
SN 7-302,509—Compact Millimeter Wave Microstrip Circulator
SN 7-302,706—Fabrication of Permanent Magnet Toroidal Rings
SN 7-313,837—Method of Making a Cathode from Tungsten and Aluminum Powders
SN 7-316,358—Optical Gain Control Distributed Amplifier
SN 7-316,710—Superconducting PYX Structures
SN 7-322,381—Method of Mass Producing Superconducting Persistent Current Rings
SN 7-326,778—Bevel Gear Backlash and Clutch Device.

Department of the Interior

SN 7-855,276 (4,812,301)—Production of Titanium Nitride, Carbide and Carbonitride Powders.

[FR Doc. 89-11667 Filed 5-15-89; 8:45 am]
BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

Action: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Report of DoD and Defense Related Employment; DD Form 1787; and OMB Control Number 0704-0047.

Type of Request: Reinstatement.

Average Burden Hours/Minutes per Response: 1 hour.

Frequency of Response: On occasion.

Number of Respondents: 7,000.

Annual Burden Hours: 10,000.

Annual Responses: 10,000.

Needs and uses: Title 10 USC 2397 requires the Secretary of Defense to file with the Senate and House of Representatives a report containing the names of persons who have filed reports of employment with DoD or Defense contractors. DD Form 1787 is completed by former military O-4 and above and civilians equal to GS-13 and above, who were released from DoD and now work for Defense contractors or who were released from Defense contractors and now work at DoD.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

May 10, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-11640 Filed 5-15-89; 8:45 am]
BILLING CODE 3810-01-M

Office of the Secretary

Defense Science Board Task Force on Advanced Naval Warfare Concepts

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Advanced Naval Warfare Concepts will meet in closed session on May 25-26 and June 8-9, 1989 at the Center for Naval Analyses, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will examine advanced naval warfare concepts and assess relevant technology, equipment, and modernization plans.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly these meetings will be closed to the public.

May 10, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-11636 Filed 5-15-89; 8:45 am]
BILLING CODE 3810-01-M

Defense Science Board Task Force on Brilliant Pebbles

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Brilliant Pebbles will meet in closed session on May 30-31 at the Pentagon, Arlington, Virginia; June 16-17 at the Pentagon, Arlington, Virginia; and June 27-28, 1989 at

Lawrence Livermore Laboratory, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will discuss classified technical and programmatic details associated with the Brilliant Pebbles space-based interceptor concept including technical maturity, potential military effectiveness, and cost and schedule risk associated with the development, testing and possible deployment.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly these meetings will be closed to the public.

May 10, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-11637 Filed 5-15-89; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Defense Procurement With a Global Technology Base

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Defense Procurement with a Global Technology Base will meet in closed session on May 31, June 1, and June 27, 1989 at Science Applications International Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will address the management, technology transfer, and program acquisition issues associated with balancing national security and international trade in the mutual interests of the DoD and the defense industrial base.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

May 10, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-11638 Filed 5-15-89; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary of Defense

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, June 6, 1989; Tuesday, June 13, 1989; Tuesday, June 20, 1989; and Tuesday, June 27, 1989 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

May 10, 1989.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-11639 Filed 5-15-89; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Air Force Activities for Conversion to Contract

ACTION: Notice.

The Air Force recently determined that the Maintenance Analysis and Structural Integrity Information System function at Tinker AFB, OK, will be examined for possible conversion to contract.

For further information contact Ms. Karen Long, HQ AFLC/XPMR, Wright-Patterson AFB, OH 45433, telephone (513) 257-6245.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-11668 Filed 5-15-89; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Military Traffic Management Command; Certification of Independent Pricing

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Notice of interim requirement; Extension of comment period and elimination of pooling provision.

SUMMARY: On page 13556 in the issue of Tuesday, April 4, 1989, MTMC published a notice of its certification of independent pricing, which was adopted as an interim requirement effective April 4, 1989, with public comments due on or before May 4, 1989. The comment period is extended to July 5, 1989. The provision on pooling is eliminated by the following change: In the second column under "Certification," subparagraph (a)(3), "(iv) Pool United States traffic or revenues; or" is deleted and subparagraph "(v)" is changed to "(iv)". In subparagraph (c)(1), ", after investigation," following the words "without knowledge" is deleted so as to read "without knowledge that any other person * * *."

DATES: Comments must be received on or before July 5, 1989.

ADDRESS: Send or deliver comments to: Commander, Headquarters, Military Traffic Management Command, ATTN: MTJA, 5611 Columbia Pike, Room 405, Falls Church, VA 22041-5050.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Dowell (Contract Attorney) or Mr. Michael E. Giboney (Supervisory General Attorney), (703) 756-1580.

John O. Roach,

Army Liaison Officer with the Federal Register.

[FR Doc. 89-11669 Filed 5-15-89; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Environmental Advisory Board; Meeting

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), this notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Chief of Engineers Environmental Advisory Board (EAB). The meeting is open to the public.

DATE: The meeting will be held from 1:00 p.m. to 5:00 p.m., Thursday, June 22, 1989.

ADDRESS: The meeting will be held at the Quality Hotel Capitol Hill, 415 New Jersey Ave. NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Dr. William L. Klesch, Chief, Office of Environmental Policy, Office of the Chief of Engineers, Washington, DC 20314-1000, (202) 272-0166.

SUPPLEMENTARY INFORMATION: It is hoped that open discussion will take place with the EAB and the Strategic Steering Group (comprised of senior leaders within the Corps Headquarters) to help the Chief of Engineers chart a course to better serve the environmental engineering needs of this nation and the world.

John O. Roach,

Army Liaison Officer, with the Federal Register.

[FR Doc. 89-11674 Filed 5-15-89; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of closed and partially closed meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Indian Education and its Search Committee. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: May 22-24, 1989, 9 a.m. until conclusion of business each day.

ADDRESS: Dupont Plaza Hotel, 1500 New Hampshire Avenue NW., Washington, DC (202/483-6000).

FOR FURTHER INFORMATION CONTACT: Jo Jo Hunt, Executive Director, National Advisory Council on Indian Education, 330 C Street SW., Room 4072, Switzer Building, Washington, DC 20202-7556 (202/732-1353).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is estalished under section 5342 of the Indian Education Act of 1988 (25 U.S.C. 2642). The Council is established to, among other things, assist the Secretary of Education in carrying out responsibilities under the Indian Education Act of 1988 (Part C, Title V, Public Law 100-297) and to advise Congress and the Secretary of Education with regard to federal education programs in which Indian children or adults participate or from which they can benefit.

In addition, the Council is required under section 5342(b)(6) of the Indian Education Act of 1988 to submit to the Secretary of Education a list of nominees for the position of Director of the Office of Indian Education whenever a vacancy in such position occurs. There is currently such a vacancy. The Secretary appoints the Director of the Office of Indian Education from this list of nominees submitted by the Council.

On May 22, 1989, the Search Committee on the Council will meet in closed session starting at approximately 9 a.m. and will end at the conclusion of business at approximately 5 p.m. The agenda will consist of a review of the process of selection of nominees, review of applications of candidates, and preparation of questions and guidelines to be used in interviews of the candidates.

On May 23, 1989, the Council will meet in closed session starting at approximately 9 a.m. and will end at the conclusion of business at approximately 5 p.m. The agenda will consist of discussion of the Search Committee's recommendations regarding the candidates and questions and guidelines to be used in the interviews, actual interviewing of the candidates, and development of the Council's list of nominees to be submitted to the Secretary of Education.

On May 24, 1989, the Council will meet starting at approximately 10 a.m. in open session and will end at the conclusion of business at approximately 2 p.m. The agenda will consist of general Council business, including approval of previous minutes.

The closed portions of the meetings of the National Advisory Council on Indian Education and its Search Committee will touch upon matters that relate solely to the internal personnel rules and practices of an agency, and will disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of section 552b(c) of the Government in the Sunshine Act (Public Law 94-409; 5 U.S.C. 552b(c).

The public is being given less than 15 days notice of the closed and partially closed meetings due to the recent receipt of the list of best qualified candidates for the position from the U.S. Department of Education and to scheduling problems.

A summary of the activities of the closed and partially closed meetings and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within 14 days of the meeting.

Date: May 12, 1989. Signed at Washington, DC.

Jo Jo Hunt,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 89-11905 Filed 5-15-89; 9:40 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award Grant to William R. Schick

AGENCY: U.S. Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.14, it is making a financial

assistance award based on an unsolicited application under Grant Number DE-FG01-89CE15349 to William R. Schick to assist in "Recycoil II Testing."

Scope: This Grant will aid in providing funding for a comprehensive, well-integrated plan to test the "Recycoil II" system, a unique heat exchange system using heat from a laundromat dryer to heat water for washing machines.

The purpose of this project is to receive approval from the American Gas Association on the effectiveness and safety of the technology. The anticipated objective is to reduce energy use for heating hot water by 33 percent.

Eligibility: Based on receipt of an unsolicited application, eligibility of this award is being limited to William R. Schick, developer and patent holder of this unique heat exchange system. Mr. Schick will contract the testing of the prototype to the American Gas Association which is the only organization in the United States that can provide approval for sale of the heat exchanger. It has been determined that this project has high technical merit, representing an innovative and novel idea which has a strong possibility of allowing for future reductions in the nation's energy consumption.

The term of this grant shall be one year from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, Attn: Lisa Tillman, MA-453.2, 1000 Independence Avenue SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 89-11727 Filed 5-15-89; 8:45 am]

BILLING CODE 6450-01-M

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Peru concerning Civil Uses of Atomic Energy, and the Agreement for Cooperation between the Government of the United States of America and the Government of Argentina concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval for the retransfer of 14.785 kilograms of uranium, enriched to 20.09 percent in the isotope uranium-235, for use in Argentina's University of Cordoba research reactor. Retransfer document RTD/AR(PE)-1 has been assigned to this transaction.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: May 5, 1989.

Richard H. Williamson,

Deputy Assistant Secretary for International Affairs.

[FR Doc. 89-11726 Filed 5-15-89; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 89-23-NG]

Washington Natural Gas Co.; Application To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for long-term authority to import Canadian natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on March 30, 1989, of an application filed by Washington Natural Gas Company (Washington Natural) for authorization to import on a firm basis up to a maximum of 25,000 MMBtu per day of Canadian natural gas over a term of 15 years from November 1, 1989, through October 31, 2004. The gas would be imported by Washington Natural under a gas purchase agreement with Amoco Canada Petroleum Company Ltd. (Amoco) and Encor Energy Corporation Inc. (Encor). According to Washington Natural, the import will provide an additional competitive supply source to meet the increasing needs of its system customers.

Washington Natural proposes to take delivery of the gas at the Sumas, Washington, border point and have it transported by Northwest Pipeline Company (Northwest) to Washington Natural's distribution system. No new facilities nor expansion of existing facilities are required to provide the transportation services.

The application is filed pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than June 15, 1989.

FOR FURTHER INFORMATION CONTACT:

Robert M. Stronach, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9622.

Diane J. Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, Washingotn, DC 20585 (202) 596-6667.

SUPPLEMENTARY INFORMATION: Washington Natural, a Washington corporation with its principal place of business in Seattle, is a natural gas distribution company serving 59 cities, towns, and adjacent uninterruptedly areas within a five-county service area in the State of Washington. Prior to July 1988, Washington Natural purchased almost all of its supply of natural gas for its distribution operations from Northwest. As part of Northwest's acceptance in June 1988 of a blanket certificate as an open access transporter under the Federal Energy Regulatory Commission's Order 500, Northwest gave its customers the option to convert up to 100 percent of firm sales service to transportation service. Washington Natural chose to convert about half of its daily contract demand to firm transportation and replace that part of Northwest's sales service with supplies from other sources. To compensate for the portion of firm volumes previously provided by Northwest, Washington Natural has contracted to purchase a long-term supply of Canadian gas to be imported from Amoco and Encor under an agreement dated November 28, 1988.

The contract with Amoco and Encor is for an initial term of 15 years with provision for automatic extension for subsequent periods of one year. The maximum daily contract demand quantity is 25,000 MMBtu. Washington Natural is obligated to purchase a minimum daily quantity of 6,000 MMBtu and a minimum annual contract quantity (MACQ) of 5.48 Bcf during the first five years of the agreement, 5.93 Bcf for the second five years, and 6.39 Bcf for the final five years. The minimum annual quantities represent load factors of 60 percent, 65 percent, and 70 percent, respectively. If Washington Natural does not take the MACQ, the seller's

remedy under the contract is a gas inventory charge, levied on volumes not taken below the prevailing MACQ, equal to $0.25 per MMBtu during the first year and thereafter 20 percent of the commodity charge. The amount which Amoco and Encor are obligated to supply is subject to reduction if the volumes nominated for delivery by Washington Natural fall below 80 percent of the aggregate of the maximum daily quantities during any three consecutive contract years.

The price Washington Natural will pay for the gas at the international border will be composed of a monthly demand charge and a monthly commodity charge. The demand charge would recover costs incurred by Amoco and Encor for arranging pipeline transportation of the gas in Canada. The commodity charge will be determined based on a seasonally-adjusted border reference price, minus the demand charge. For the first contract year, the contract establishes the border reference price at $1.93 (U.S.) per MMBtu in the summer months (August through October) and $2.10 (U.S.) per MMBtu in the winter months (November through March). The parties will meet annually to determine the border reference price and commodity charge to be paid for the gas. If either party is unable to agree upon a price, either party has the right to refer the matter to arbitration.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Other matters that may be considered in making a public interest determination include need for gas and security of the long-term supply. Parties that may oppose this application should comment in their responses on the issues of competitiveness and need for the gas as set forth in the policy guidelines. The applicant asserts that this import arrangement is in the public interest because it is competitive and its gas source will be secure. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9473. They must be filed no later than 4:30 p.m., e.d.t., June 15, 1989.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Washington Natural's application is available for inspection and copying the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 9, 1989.

J.E. Walsh, Jr.,

Acting Assistant Secretary, Fossil Energy.

[FR Doc. 89-11728 Filed 5-15-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ID-2404-000, et al.]

Donald C. Blasius, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Donald C. Blasius

[Docket No. ID-2404-000]

May 5, 1989.

Take notice that on April 26, 1989, Donald C. Blasius filed an application for authorization under section 305(b) of the Federal Power Act to hold the following positions:

Director, Ohio Edison Company.

President and Director, White Consolidated Industries, Inc.

Comment date: May 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. PacifiCorp Doing Business as Pacific Power & Light Co.

[Docket No. EC86-25-000]

May 8, 1989.

Take notice that on April 26, 1989 PacifiCorp doing business as Pacific Power & Light Company tendered for

filing its compliance filing pursuant to the Commission's order issued February 13, 1987.

Comment date: May 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Commonwealth Edison Co.

[Docket No. ER89-353-000]

May 8, 1989.

Take notice that Commonwealth Edison Company (Edison) on April 14, 1989, tendered for filing proposed changes in its FERC Electric Service Tariff Rate 79B and Rider 20A which result in a decrease in rates for partial requirements service to the City of Rochelle, Illinois. Edison states that the reductions in the Rate 79B energy charges and charges in the base fuel cost and fuel adjustment formula in Rider 20A track changes in Edison's retail rates.

Edison seeks an effective date of January 1, 1989 and, accordingly, seeks waiver of the Commission's notice requirements. Copies of the filing were served upon the City of Rochelle and the Illinois Commerce Commission.

Comment date: May 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Niagara Mohawk Power Corp.

[Docket No. ER89-354-000]

May 8, 1989.

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk), on April 17, 1989, tendered for filing an agreement between Niagara Mohawk and the New York Power Authority (the Authority), the Contract for the Sale and Resale of Expansion Power. This Agreement extends those provisions of Niagara Mohawk FERC Rate Schedule No. 19 that govern Niagara Mohawk's transmission and delivery of Expansion Power and associated energy to certain industrial customers. No change in Niagara Mohawk's currently effective rate for the service will occur as a result of this filing.

Niagara Mohawk requests an effective date of April 23, 1989 and states that waiver of the notice requirements of 18 CFR 35.11 is warranted because the Authority agreed to the terms and conditions of the proposed rate schedule.

Copies of this filing were served upon the Authority and the New York State Public Service Commission, and all entities listed on the Service List.

Comment date: May 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Co. (Wisconsin)

[Docket No. ER89-371-000]

May 8, 1989.

Take notice that Northern States Power Company (Wisconsin) (NSPW) filed on April 24, 1989, an amendment to the presently existing contract for service by Northern States Power Company Wisconsin to the City of River Falls, Wisconsin. NSPW states that the presently existing contract is a full requirements contract which has been assigned to Wisconsin Public Power Inc. system. NSPW states that the amendment provides for a change in the character of service from full requirements service to partial requirements contract demand service and that it is properly characterized as a rate decrease. The amendment has been executed by NSPW and Wisconsin Public Power Inc. System. NSPW requests waiver of the prior notice requirements and an effective date of May 1, 1989.

Comment date: May 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. The Washington Water Power Co.

[Docket No. ER89-373-000]

May 8, 1989.

Take notice that on April 26, 1989, The Washington Water Power Company (Seller) tendered for filing copies of an Agreement for Purchase and Sale of Firm Capacity and Energy between Seller and PacifiCorp, doing business as Pacific Power & Light Company and Utah Power & Light Company (Purchaser). Seller states that the capacity and energy will be made available to Purchaser from February 13, 1989 through December 31, 1997.

Seller requests an effective date of February 13, 1989 for the rate schedule, and therefore requests a waiver of the Commission's notice requirements, stating that there will be no effect upon purchasers under other rate schedules.

Comment date: May 23, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Co.

[Docket No. ER89-374-000]

May 8, 1989.

Take notice that on April 26, 1989, Southern California Edison Company (Edison) tendered for filing a change of rates for transmission service as embodied in Edison's agreements with the following entities which reflects an increase in rate of return from 10.75 percent to 10.91 percent authorized by the California Public Utilities Commission (CPUC) to be made effective January 1, 1989.

Rate Schedule FERC No.

1. City of Anaheim (Anaheim); 130, 164, 193, 200, 204, 208, NA*.
2. City of Azusa (Azsua); 160, 189, 201, 209, 224, 226.
3. City of Banning (Banning); 159, 190, 199, 210, 227, NA*.
4. City of Colton (Colton); 162, 191, 202, 211, 225, 228.
5. City of Riverside (Riverside); 129, 165, 192, 194, 198, 205, 212, NA*.
6. City of Vernon (Vernon); 149, 154.7, 172, 195, 207, 229.
7. Contract Rate TN; Original Volume No. 1.

*NA=FERC rate number "not available", agreements filed March 22, 1989.

Edison requests waiver of the Commission's prior notice requirement and an effective date for these rate changes of January 1, 1989.

Comment date: May 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Russell D. Wright

[Docket No. ID-2222-000]

May 8, 1989.

Take notice that on April 10, 1989, Russell D. Wright, filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions: Director, Vermont Yankee Nuclear Power Corporation, Public Utility; Director, Maine Yankee Atomic Power Company, Public Utility; Director, Connecticut Yankee Atomic Power Company, Public Utility; Director, Yankee Atomic Electric Company, Public Utility; Financial Vice President and Director, Cambridge Electric Light Company, Public Utility; Financial Vice President and Director, Canal Electric Company, Public Utility; Financial Vice President and Director, Commonwealth Electric Company, Public Utility; Financial Vice President and Director, Commonwealth Gas Company.

Comment date: May 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. John C. Duffett

[Docket No. ID-2203-001]

May 8, 1989.

Take notice that on April 25, 1989, John C. Duffett, filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions: President and Chief Executive Officer and Director, Public Service Company of New Hampshire, Public Utility; Director, Maine Yankee Atomic Power Company, Public Utility; Director,

Vermont Yankee Nuclear Power Corporation, Public Utility; Director, Yankee Atomic Electric Company, Public Utility.

Comment date: May 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Cincinnati Gas & Electric Company

[Docket No. ER89-375-000]

May 9, 1989.

Take notice that the Cincinnati Gas & Electric Company (Cincinnati) tendered for filing on April 27, 1989 an Eighth Supplemental Agreement dated as of May 1, 1989 to the Interconnection Agreement dated July 15, 1969, between Cincinnati and the Louisville Gas and Electric Company.

The Eighth Supplemental Agreement cancels existing service schedules for Emergency Service, Interchange and Short Term Power and adopts new Service Schedules for Emergency Service, Interchange, Short Term Power, Limited Term Power, Seasonal Power and Diversity Power. The new Service Schedules establish the applicable charges. There is no estimate of increased revenues from the charges since transactions will occur only as load and capacity conditions dictate. A May 1, 1989 effective date has been requested.

Cincinnati states that the rates and services were negotiated by the parties. Louisville Gas and Electric Company concurs in the filing of the Eighth Supplemental Agreement.

A copy of the filing was served upon Louisville Gas and Electric Company, the Public Utilities Commission of Ohio and the Public Service Commission of Kentucky.

Comment date: May 22, 1989, in accordance with Standard Paragraph end of this notice.

11. New England Power POOL

[Docket No. ER89-376-000]

May 9, 1989.

Take notice that on April 27, 1989, the New England Power Pool (NEPOOL) Executive Committee filed an Amendment to the NEPOOL Agreement, dated as of March 15, 1989 (Amendment) which changes provisions of the NEPOOL Agreement (NEPOOL FPC No. 2), dated as of September 1, 1971, as previously amended by twenty five (25) amendments.

The Executive Committee states that the Amendment is intended to clarify pool procedures regarding elimination of distortions resulting from voltage reductions.

The NEPOOL Executive Committee has requested that the Amendment be permitted to become effective on the date specified therein, November 1, 1988, the commencement date of the pool's current Power Year, and the Commission waive its notice requirements to permit the filing to become effective on that date.

Comment date: May 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

12. Consolidated Edison Company of New York, Inc.

[Docket No. ER89-377-000]

May 9, 1989.

Take notice that on April 27, 1989, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing, as a supplement to its Rate Schedule FERC No. 91, an agreement to sell capacity to Long Island Lighting Company (LILCO). The agreement provides for a reduction in capacity sold from 250 to 50 megawatts and a reduction in the capacity charge from $75.00 to $71.89 per megawatt per day. The energy charge continues to be based upon incremental costs of generation.

Con Edison requests waiver of the notice requirements of Section 35.3 of the Commission's regulations so that the Rate Schedule can be made effective as of October 30, 1988.

Con Edison states that a copy of this filing has been served upon LILCO.

Comment date: May 22, 1989, in accordance with Standard Paragraph E at the end of this notice.

13. Portland General Electric Co.

[Docket No. ER89-378-000]

May 9, 1989.

Take notice that Portland General Electric Company (PGE) on April 27, 1989. tendered for filing a Sales Agreement with the Northern California Power Agency (NCPA) for the sale during a seven-month period beginning on October 1, 1988, of up to 127,200 MWh of firm energy deliverable at rates not in excess of 25 MW per hour. Upon mutual agreement of all parties, NCPA may assign a portion of their energy delivery to the Sacramento Municipal Utility District. The contract rates are based upon PGE's incremental cost of production plus an additional amount for fixed charges (not exceeding fully distributed fixed charges) plus the costs of transmission).

PGE states the reason for the proposed Sales Agreement is to allow it to recover a portion of its fixed charges applicable to certain of its thermal generating resources during a period of time those resources are not required to serve its system load.

PGE requests an effective date of October 1, 1988 and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon the Northern California Power Agency, the Sacramento Municipal Utility District, and the Oregon Public Utility Commission.

Comment date: May 22, 1989 in accordance with Standard Paragraph E at the end of this notice.

14. Louisiana Power & Light Co.

[Docket No. ER88-540-002]

May 9, 1989.

Take notice that on March 29, 1989, Louisiana Power & Light Company (LP&L) tendered for filing revised service schedules for replacement energy service in Compliance with the Commission's order issued September 30, 1988.

LP&L states that the revised service schedules were accepted for filing on January 12, 1989, and made effective as of October 2, 1988.

Comment date: May 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11599 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER89-387-000, et al.]

Tampa Electric Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

May 10, 1989.

Take notice that the following filings have been made with the Commission:

1. Tampa Electric Co.

[Docket No. ER89-387-000]

Take notice that on April 28, 1989, Tampa Electric Company (Tampa Electric) tendered for filing revised cost support schedules showing a change in the daily capacity charge for its scheduled interchange service provided under interchange agreements with Florida Power Corporation, Florida Power & Light Company, Florida Municipal Power Agency, Fort Pierce Utilities Authority, Jacksonville Electric Authority, Orlando Utilities Commission, Sebring Utilities Commission, Seminole Electric Cooperative, Utilities Commission of the City of New Smyrna Beach, Utility Board of the City of Key West, and the Cities of Gainesville, Kissimmee, Lake Worth, Lakeland, St. Cloud, Starke, Tallahassee, and Vero Beach, Florida. Tampa Electric states that the revised daily capacity charge is based on 1988 Form No. 1 data, and is derived by the same method that was utilized in the cost support schedules submitted with the interchange agreements and previous annual revisions.

Tampa Electric requests that the revised daily capacity charge be made effective as of May 1, 1989, and therefore requests waiver of the Commission's notice requirements.

Comment date: May 25, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Kansas Power and Light Co.

[Docket No. ER89-379-000]

Take notice that on April 27, 1989, Kansas Power and Light Company (KP&L) tendered for filing the General Participation Agreement of the MOKAN Power Pool dated April 19, 1989 (Agreement).

The Agreement is a combination of the provisions of the previous General Participation Agreement and all amendments thereto. Additionally, the rights and obligations of the power pool members are clarified and certain additional services are provided for in this new Agreement.

The Agreement provides each power pool member the opportunity to utilize their generation and transmission facilities in the most cost effective manner.

KPL states that the following are presently Participants under the General Participation Agreement being superseded, with the following FPC Rate Schedule Numbers.

Kansas City Power & Light Company—Rate Schedule FPC No. 32
Missouri Public Service—Rate Schedule FPC No. 8
The Empire District Electric Company—Rate Schedule FPC No. 73
Kansas Gas and Electric Company—Rate Schedule FPC No. 94
The Kansas Power and Light Company—Rate Schedule FPC No. 7
Centel Electric-Kansas—Rate Schedule FPC No. 53
St. Joseph Light & Power Company—Rate Schedule FPC No. 17
Midwest Energy, Inc.
Sunflower Electric Cooperative, Inc.
Board of Public Utilities of the City of Kansas City, Kansas
Independence Power & Light Department of the City of Independence, Missouri

KPL states that all Participants under the Agreement filed Certificates of Concurrence to the proposed change with KPL's submittal.

Copies of this filing were served upon each MOKAN Power Pool participant, the Kansas Corporation Commission and the Missouri Public Service Commission.

Comment date: May 25, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Co. of Indiana, Inc.

[Docket No. ER89-380-000]

Take notice that Public Service Company of Indiana, Inc. (PSI) on April 24, 1989 tendered for filing pursuant to the Power Coordination Agreement PSI and Indiana Municipal Power Agency (IMPA) a Third Amendment.

The Third Amendment modifies the agreement by modifying Section 2.01 to transfer the Town of Edinburgh, Indiana from PSI's FERC Electric Tariff—Original Volume No. 1 to the Power Coordination Agreement as a member of IMPA.

Copies of the filing were served upon the Indiana Municipal Power Agency, the City of Edinburgh, Indiana and the Indiana Utility Regulatory Commission.

PSI has requested waiver of the Commission's notice requirement to permit the filing to become effective June 1, 1989.

Comment date: May 25, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Niagara Mohawk Power Corp.

[Docket No. ER89-381-000]

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk), on April 27, 1989, tendered for filing an agreement between Niagara Mohawk and Boston Edison Company (BECO) dated April 21, 1969 providing for certain transmission services to BECO. This agreement provides for the transmission and delivery by Niagara Mohawk of 175 MW of firm power and associated energy purchased by BECO from New York State Electric & Gas Corporation (NYSEG). The term of the agreement for firm wheeling transactions is from May 1, 1989 until October 31, 1989.

An effective date of May 1, 1989 is proposed. Niagara Mohawk states that waiver of the notice requirements of 18 CFR 35.3 is warranted because BECO, the only customer under this rate schedule, has consented to the effective date and the service provided by this agreement will commence on May 1, 1989.

Copies of this filing were served upon BECO and the New York State Public Service Commission.

Comment date: May 25, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. United Illuminating Co.

[Docket No. ER89-382-000]

Take notice that on April 27, 1989, the United Illuminating Company (UI) tendered for filing as rate schedules the Letter Agreement between UI and the City of Holyoke, Massachusetts Gas and Electric Department (Holyoke) (the Holyoke Agreement) and the Letter Agreement between UI and Vermont Public Power Supply Authority (VPPSA) (the VPPSA Agreement). The Agreements, dated as of September 24, 1986 and April 27, 1987, respectively, provided for UI to sell unit capacity and associated energy to Holyoke and VPPSA.

The term of the Holyoke Agreement began on November 1, 1986 and continued through April 30, 1987. The term of the VPPSA Agreement on May 1, 1987 and continued through October 31, 1987.

UI requests that the Commission waive its standard 60-day notice period and allow the Holyoke Agreement and the VPPSA Agreement to become effective on November 1, 1986 and May 1, 1987, respectively, and to terminate on April 30, 1987 and 1987, respectively.

Holyoke and VPPSA have filed Certificate of Concurrence in this docket.

UI states that corresponding copies of these rate schedules have been mailed to Holyoke and VPPSA.

UI further states that the filing is in accordance with Section 35 of the Commission's regulations.

Comment date: May 25, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Nevada Power Co.

[Docket No. ER89-383-000]

Take notice that on April 28, 1989, Nevada Power Company (Nevada) tendered for filing an agreement entitled

Agreement For Transmission Service Among Nevada Power Company and Overton Power District No. 5 (Overton) and Lincoln County Power District No. 1 (Lincoln) hereinafter "the Agreement." The primary purpose of the Agreements is to establish the terms and conditions for the transmission of the federal power by Nevada to Overton and Lincoln.

Nevada states that copies of the filing were served upon Overton and Lincoln.

Comment date: May 25, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Carolina Power & Light Co.

[Docket No. ER89-384-000]

Take notice that Carolina Power & Light Company (Company), on April 28, 1989, tendered for filing in Docket No. ER89-384-000 changes to Company's Backstand Power and Transmission rates previously filed as Exhibit No. 1 to Appendix A of the "Amendment to the Service Agreement Between the City of Fayetteville and Carolina Power & Light Company" (Amendment) dated January 16, 1986. This filing is made as a result of a change in the Commission's advisory benchmark rate of return on common equity which is a component of Company's Backstand Power and Transmission rates. The changes to the rates are proposed to become effective on July 1, 1989 and are for the period July 1, 1989 through June 30, 1989.

Comment date: May 25, 1989, in accordance with Standard Paragraph E at the end of this notice.

8. Washington Water Power Co.

[Docket No. ER89-385-000]

Take notice that on April 28, 1989, the Washington Water Power Company (Washington) tendered for filing copies of a firm capacity sale to what Washington refers to as a Letter Agreement between Washington and Sierra Pacific Power Company (SPP). Washington states that the capacity will be made available to SPP from December 27, 1988 through January 2, 1989 and January 23 through December 31, 1989.

Washington requests that the requirements of prior notice be waived and the effective date be made retroactive to December 27, 1988.

Comment date: May 25, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Kansas City Power & Light Co.

[Docket No. ER89-386-000]

Take notice that on April 28, 1989, Kansas City Power & Light Company (KCPL) tendered for filing with the Commission proposed changes in Service Schedules for Load Regulation and Displacement Energy Service to supersede and replace Service Schedules for Load Regulation and Displacement Energy Service in contracts and agreements with the following wholesale customers:

1. City of Baldwin City, Kansas (Baldwin), FERC No. 85
2. City of Carrollton, Missouri (Carrollton), FERC No. 86
3. City of Gardner, Kansas (Gardner), FERC No. —
4. City of Garnett, Kansas (Garnett), FPC No. 78
5. City of Independence, Missouri, FERC No. 101
6. City of Marshall, Missouri (Marshall), FPC No. 83
7. City of Osawatomie, Kansas (Osawatomie), FPC No. 77
8. City of Ottawa, Kansas (Ottawa), FERC No. 90
9. City of Salisbury, Missouri (Salisbury), FERC No. 100.

The proposed changes would redesign the service schedules and increase revenues from jurisdictional sales and service by $147,472 based on the 12 months period ending May, 1990.

The new Service Schedules reflect a design of the demand charges (nearly revenue neutral); a redesign of the energy charges including an increase of two mills per kwh in the energy charge assessed during the non-summer months, the removal of ready reserve credits, the removal of the high cost energy surcharge, and the rebasing of the fuel adjustment; and extension of the availability of LRDE Service to the summer months with charges during the summer approximately equal to charges for KCPL's System Participation Power Service on file with the Commission; and a clarification of the general conditions surrounding the availability of the new Service Schedules.

Copies of the filing were served upon KCPL's jurisdictional customers, as well as the Missouri Public Service Commission and the State Corporation Commission of the State of Kansas.

Comment date: May 25, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Tampa Electric Co.

[Docket No. ER89-388-000]

Take notice that on April 28, 1989, Tampa Electric Company (Tampa Electric) tendered for filing cost support schedules showing changes in the Committed Capacity and Short-Term Power Transmission Service rates under Tampa Electric's agreement to provide qualifying facility transmission service for Royster Company (Royster), designated as Tampa Electric's Rate Schedule FERC No. 28. Tampa Electric states that the revised transmission service rates are based on 1988 No. 1 data, and are developed by the same method that was utilized in the cost support schedules accompanying the initial filing of the transmission service agreement and in prior annual revisions.

Tampa Electric proposes that the revised transmission service rates be made effective as of May 1, 1989, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon Royster and the Florida Public Service Commission.

Comment date: May 25, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. Pacific Gas and Electric Co.

[Docket No. ER89-390-000]

Take notice that on May 1, 1989, Pacific Gas & Electric Company (PG&E) tendered for filing a change in rate schedule amending Rate Schedule FERC No. 79, regarding distribution service for the Arvin-Edison Water Storage District (Arvin).

The change in rate schedule takes the form of a Settlement Agreement, which resolves a billing dispute for the period April 1, 1984 through March 31, 1985, and amends the procedures for metering delivery points designated to be served by PG&E at retail. This filing does not change rates for services.

PG&E has requested an effective date of July 1, 1989 for this filing.

Comment date: May 25, 1989, in accordance with Standard Paragraph E at the end of this notice.

12. Pennsylvania Power & Light Co.

[Docket No. ER89-389-000]

Take notice that Pennsylvania Power & Light Company (PP&L) on April 28, 1989, tendered for filing an executed agreement dated as of April 27, 1989, between PP&L and Northeast Utilities Service Company, as agent for the Connecticut Light and Power Company and Western Massachusetts Electric Company (NU Companies), which supplements the System Power Purchase Agreement, dated September 1, 1982, on file with the Commission as PP&L's Rate Schedule FERC No. 75. The proposed rate schedule provides for the sale of short-term electric output (capability and energy) from PP&L's Martins Creek Units 3 and 4 to NU Companies.

The rate schedule provides for a maximum output reservation charge of $808 per megawatt week and an output delivery charge of PP&L's actual cost of producing the energy plus maximum

charge of $17/MWH reflecting foregone interchange savings.

PP&L requests waiver of the notice requirements of Section 205 of the Federal Power Act and Section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective as of May 1, 1989, in accordance with the anticipated commencement of service.

PP&L states that a copy of its filing was served on NU Companies, the Pennsylvania Public Utility Commission, the Connecticut Public Utilities Control Authority and the Massachusetts Department of Public Utilities.

Comment date: May 25, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11696 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7829-000 Oregon]

Talent, Rogue River Valley, and Medford Irrigation Districts; Availability of Environmental Assessment

May 10, 1989.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a major license for the proposed Emigrant Dam Hydroelectric Project located on the Emigrant Creek in Jackson County, near Ashland, Oregon, and has prepared an nvironmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11635 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

Hydroelectric Applications (Pennsylvania Electric Co.) et al.; Filed With the Commission

[Project Nos. 2370-016, et al.]

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. Type of Application: Amendment to the Deep Creek Lake Project Recreation Plan and Lake Zoning Plan.

b. Project No: 2370-016 (Revised Recreation Plan) 2370-021 (Lake Zoning Plan).

c. Date Filed: March 1, 1989.

d. Applicant: Pennsylvania Electric Company.

e. Name of Project: Deep Creek Lake.

f. Location: Deep Creek in Garrett County, Maryland.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. E.R. Cathcart, 1001 Broad Street, Johnstown, PA 15907, (814) 533-8403.

i. FERC Contact: Brian Romanek, (202) 376-9042.

j. Comment Date: June 20, 1989.

k. Description of Project: The Pennsylvania Electric Power Company (PENELEC), licensee for the Deep Creek Lake Project, proposes to amend its recreation plan for the subject project. The proposed amendment was initiated by the Maryland Department of Natural Resources (DNR) because the DNR, through a 1980 Settlement Amendment, acquired limited management responsibilities to control recreational use of the lake and its buffer zone area. As a condition of the Settlement Agreement, the DNR agreed to formulate a lake zoning plan and to implement the recreation plan for the project. The DNR intends to fulfill its agreement but requests authorization to modify the recreation plan by adding and deleting certain items. The DNR proposes to: (1) Develop a public access site at the southside of the route 219 bridge where it crosses the lake. The site would provide parking for 15 cars and a connecting pathway to the fishing area; (2) make several improvements to the State Park that include relocating beach area No. 3 to a better location within the park, construct two handicapped fishing piers with paved pathway access, and construct an additional boat ramp and parking facilities next to the existing ramp at the park; (3) provide additional signs at all public access areas to the lake; (4) to deed the unimproved recreational sites A and B (identified in the approved recreation plan) to the PENELEC to be reserved for future development; and (5) to issue use permits (for such facilities as boat docks) to property owners adjacent to sites A and B, provided the use does not interfere with future recreational opportunities at the sites.

The DNR has also prepared a zoning plan to better control the increasing recreational use of the lake and its shoreline. The proposed controls set forth in the plan were derived from the results of a recently conducted carrying capacity study at the lake. The plan, as currently proposed, would be implemented by DNR, after FERC approval and the promulgation of State regulations. DNR is in the process of developing these regulations and would implement them following the appropriate State procedures, that includes public hearings.

Within the constraints of PENELEC's license, onsite enforcement of the lake zoning plan would be accomplished by the DNR.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

2a. Type of Application: New License (Major over 5MW).

b. Project No.: 2534-005.

c. Date Filed: December 29, 1988.

d. Applicant: Bangor Hydro-Electric Company.

e. Name of Project: Milford Project.

f. Location: On the Penobscot and Stillwater Rivers in Penobscot County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791 (a).825(r).

h. Applicant Contact: Frederick S. Samp, Bangor Hydro-Electric Company, 33 State Street, Bangor, ME 04401, (207) 945-5621.

i. FERC Contact: Robert Bell, (202) 376-9237.

j. Comment Date: June 14, 1989.

k. Description of Project: The project as licensed consists of the following: (1) The Milford Dam 1,400 feet long with a

maximum height of about 30 feet containing a forebay intake, log sluice and flashboards, and the Gilman Falls Dam 475 feet long with an average height of 5 feet (at which no electricity is generated); (2) the reservoir created by the Milford Dam and the Gilman Falls Dam, with an area of approximately 917.5 acres as normal pond elevation 101.7 feet with over 2000 acre-feet of storage and extending 3.1 miles upstream; (3) a powerhouse with masonry foundation housing four units with a generating capacity 1,600 kW each; and (4) appurtenant facilities.

The proposed new license proposal would consist of the following: (1) The 475-foot-long, 5-foot-high concrete gravity Gilman Falls Dam (to regulate flow in the Stillwater River only with no energy generation); (2) 4.4-foot-high flashboards (3) the 1,159-foot-long, 20-foot-high concrete gravity Milford Dam; (4) 4.5-foot-high flashboards; (5) the impoundment of both dams having a surface area of 235 acres with a storage capacity of 2,250 acre-feet, at a normal water surface elevation of 101.7 feet m.s.l.; (6) the existing intake structure; (7) the existing powerhouse would be expanded to have five generating units with a total installed capacity of 8,000 kW; (8) the existing tailrace; and (9) appurtenant facilities. The Applicant estimates the average annual generation would be 59,400 MWh. The Applicant owns all of the existing project facilities. All project energy generated would be utilized by the Applicant for sale to its customers.

The existing project would also be subject to Federal takeover under Sections 14 and 15 of the Federal Power Act. Based on the license expiration of December 31, 1990, the Applicant's estimated net investment in the project would amount to $2,221,585, and the estimated severance damages would amount to $300,000.

l. This notice also consists of the following standard paragraphs: B, C, and D1.

3a. Type of Application: Transfer of License.

b. Project No.: 2851–005.

c. Date Filed: March 29, 1989.

d. Applicant: Riegel Products Corporation and James River-Groveton, Inc.

e. Name of Project: Natural Dam.

f. Location: Oswegatchie River, Village of Governeur, St. Lawrence County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contacts: Mr. David J. McKittrick, James River Corporation of Virginia, Tredegar Street, P.O. Box 2218, Richmond, VA 23217. Ms. Jacquelyn E. Stone, McGuire, Woods and Battle, One James Center, Richmond, VA 23219, (804) 644–4131.

i. FERC Contact: Steven H. Rossi, (202) 376–9814.

j. Comment Date: June 12, 1989.

k. Description of the proposed transfer: The applicants propose to transfer the license from Riegel Products Corporation (licensee) to James River-Groveton, Inc. (transferee) as part of reorganization of the James River Corporation of Virginia of which the licensee and transferee are wholly owned members. The Natural Dam project consists of an existing dam, reservoir and powerhouse with turbine-generators with a total rated capacity of 1,020 kW.

The transferee has proposed to operate the project in accordance with the existing license. No change to the project operation has been proposed.

1. This notice also consists of the following standard paragraphs: B and C.

4a. Type of Filing: Amendment of License.

b. Project No.: 4444–007.

c. Date Filed: September 21, 1988.

d. Applicant: Trans Mountain Hydro Corp.

e. Name of Project: Blue Valley Ranch Hydro Power.

f. Location: On the Blue River in Grand County, Colorado, Township 1 South, Range 80 West.

g. Filed Pursuant to: The Federal Power Act and section 4.200 of the Commission's regulations.

h. Applicant Contact: Mr. Herbert C. Young, 123 S. Paradise Road, Golden, Co 80401, (303) 526–9296.

i. Commission Contact: Mr. James Hunter, (202) 376–1943.

j. Comment Date: June 22, 1989.

k. Description of Project: The proposed run-of-river project would consist of the following facilities: (1) A 35-foot-wide, 3-foot-high rock and concrete diversion structure; (2) a 55-food-wide, 18-foot-high grated intake structure; (3) a 640-foot-long, 100-foot-wide, 14-foot-deep power canal; (4) a powerhouse containing 3 equally sized vertical shaft turbine generator units with a combined capacity of 288 kilowatts (KW) producing an estimated annual generation of 1,600,000 kilowatt-hours; (5) a 100-foot-long tailrace; and (6) 1,450 feet of 14.4-kV transmission line. The total estimated project cost is $157,685. This capacity represents a 102–KW increase from the capacity authorized by the license for this project.

l. Purpose of Project: Power would be sold to Tri State Generation and Transmission Association, Inc.

m. This notice also consists of the following standard paragraphs: B, C and D1.

5a. Type of Application: Surrender of License.

b. Project No.: 5927–008.

c. Date Filed: 3/30/89.

d. Applicant: Goose Creek Hydro Associates.

e. Name of Project: Goose Creek.

f. Location: On Goose Creek in Loudoun County, Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. Contact Person: David K. Iverson, 410 Severn Ave., Suite 313, Annapolis, MD. 21403, (301) 268–8820.

i. Comment Date: June 20, 1989.

j. Description of Project: The proposed project would have consisted of an existing 715-foot-long, 39-foot-high concrete gravity dam, and existing 120-acre reservoir which provides a water supply source for the City of Fairfax, a new 50-foot-long penstock, a new powerhouse containing one 350-kW turbine/generator unit and appurtenant facilities.

Licensee states that the construction and operation of this project is no longer economically feasible and that all financial strategies have been exhausted. Therefore, license has requested that its license be terminated. The license was issued March 4, 1984, and would have expired February 28, 2024. The licensee has not commenced construction of the project.

k. This notice also consists of the following standard paragraphs: B, C, and D2.

6a. Type of Application: Major License (over 5 MW).

b. Project No.: 10482–001.

c. Date Filed: September 9, 1988.

d. Applicant: Orange and Rockland Utilities, Inc.

e. Name of Project: Swinging Bridge Project.

f. Location: On the Mongaup River in Sullivan and Orange Counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contacts: Mr. Frank E. Fischer, Engineering and Production, Orange and Rockland, Utilities, Inc. One Blue Hill Plaza, Pearl River, NY 10965, (914) 352–6000.

Mr. G.S.P. Bergen Mr. Thomas E. Mark, LeBoeuf, Lamb, Leiby & MacRae, 520 Madison Avenue, New York, NY 10022, (212) 715–8372.

i. FERC Contact: Steven H. Rossi—(202) 376–9814.

j. Comment Date: June 14, 1989.

k. Description of Project: The existing project consists of the Toronto, Cliff

Lake, and Swinging Bridge Dams. The existing project and dams are owned by Orange and Rockland Utilities, Inc., Pearl River, New York. This license application was filed pursuant to a preliminary permit held by the applicant.

(i) *Toronto Facilities.* The earth-fill Toronto Dam is 1,620 feet long and 103 feet high and has a 50-foot-wide concrete and rock side channel spillway at its west end. Five-foot-high pin-type flashboards are used in the spillway channel. The reservoir has a surface area of 860 acres, a storage capacity of 24,658 acre-feet, and a water surface elevation of 1,220 feet USGS. Discharges from the Toronto Reservoir to Cliff Lake are made through an 8-foot reinforced concrete horseshoe shaped conduit, 460 feet in length.

(ii) *Cliff Lake Facilities.* Cliff Lake Dam consists of a concrete spillway section 98 feet long with concrete abutments and earth-fill embarkments totaling 610 feet in length. Thirteen-inch-high pin-type flashboards are on the spillway crest. The reservoir has a surface area of 190 acres, a storage capacity of 2,899 acre-feet, and a water surface elevation of 1,072 feet USGS. Water releases from Cliff Lake to Swinging Bridge Reservoir are made through a 2,100-foot-long, 5.3-foot-wide, and 6.6-foot-high unlined horseshoe-shaped tunnel.

(iii) *Swinging Bridge Facilities.* The earth-fill Swinging Bridge Dam is 975 feet long and 135 feet high, and has a separate concrete side channel spillway located 750 feet upstream of the dam. Five-foot-high pin-type flashboards are on the northern half of the spillway crest. On the remaining half of the spillway, there are 5 motor-driven gates. The reservoir has a surface area of 1,000 acres, a storage capacity of 17,222 acre-feet, and a water surface elevation of 1,070 feet USGS.

The Swinging Bridge Powerhouse No. 1 has an installed capacity of 5,000 kW and is supplied from the Swinging Bridge Reservoir by a steel-lined circular concrete penstock, 692 feet long and 10 feet in diameter. A butterfly-type motor-operated valve, 8 feet in diameter, is located in a gate tower, which is constructed on top of the penstock and is 246 feet downstream of the penstock intake. A 25-foot-wide tailrace leads 75 feet from the draft tube discharge to the river.

The Swinging Bridge Powerhouse No. 2 has an installed capacity of 6,750 kW and is supplied from the Swinging Bridge Reservoir through a concerte lined tunnel 784 feet long around the west end of the dam, connected to a steel penstock 188 feet long. Both the lined tunnel and the steel penstock have diameters of 9.75 feet. Located 571 feet downstream of the intake is a surge tank and a 20-foot-long tailrace.

The two powerhouses are constructed of brick, steel, and reinforced concrete, Their total average annual generation is 17,110,000 kWh. The 4.16-kV generator leads to 4.16/69-kV, three-phase step-up transformer banks are 25 feet long for Powerhouse No. 2. The 69-kV overhead transmission line is 3.2 miles long.

l. Purpose of Project: Project power is sold to the customers of Orange and Rockland Utilities, Inc.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

7a. Type of Application: Major License (over 5 MW).

b. Project No.: 10648–000.

c. Date Filed: August 10, 1988.

d. Applicant: Adirondack Hydro Development Corp. and McGrath Industries, Inc.

e. Name of Project: Waterford Project.

f. Location: On the Hudson River in Saratoga and Rensselear Counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contract: Mr. Darryl F. Caputo, Adirondack Hydro Development Corp., SeaComm Plaza, Market Street, Potsdam, NY 13676, (315) 265–8090.

i. FERC Contract: Robert Bell, (292) 376–9237.

j. Comment Date: June 14, 1989.

k. Description of Project: The proposed Waterford Project would consist of: (1) The existing 19.5-foot-high, 1,028-foot-long Waterford Dam; (2) the existing reservoir having a surface area of 420 acres with a storage capacity of 5,800 acre-feet and a normal water surface elevation of 30.5 feet m.s.l.; (3) a proposed 96-foot-wide, 164-foot-long intake channel; (4) a proposed powerhouse containing two generating units having a total installed capacity of 10,200 kW; (5) a proposed 164-foot-long tailrace channel; (6) a proposed 1.9-mile-long, 34.5-kV transmission line; and (7) appurtenant facilities. The Applicant estimates the average annual generation would be 39,000,000 kWh. All energy generated would be sold to the Niagara Mohawk Power Corp.

1. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

8a. Type of Application: Preliminary Permit.

b. Project No.: 10744–000.

c. Date filed: March 8, 1989.

d. Applicant: Clearwater Hydro Associates.

e. Name of Project: Clearwater Dam Project.

f. Location: On the Black River in Reynolds and Wayne Counties, Missouri.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Dominique Darne, Might Development Corp., 1900 L Street NW., Suite 608, Washington DC 20036, (202) 775–4692.

i. FERC Contact: Robert Bell, (202) 376–9237.

j. Comment Date: June 14, 1989.

k. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers Clearwater Dam and would consist of: (1) An existing intake tower; (2) an existing 23-foot-diameter, 1,777-foot-long conduit; (3) a proposed penstock; (4) a proposed powerhouse containing generating units with a total installed capacity of 5,270 kW; (5) a proposed tailrace; (6) an existing transmission line; and (7) appurtenant facilities. The Applicant estimates the average annual generation would be 25,390,000 kWh. All project energy generated would be sold to a local utility. The cost of the studies is estimates $150,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

9a. Type of Application: Preliminary Permit.

b. Project No.: 10748–000.

c. Date Filed: March 13, 1989.

d. Applicant: Iowa Hydropower Development Corporation.

e. Name of Project: Coralville Dam Project.

f. Location: On the Iowa River in Johnson County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Justin Rundle, IHDC, 708 Iowa Avenue, Iowa City, IA 52240, (319) 337–9875.

i. FERC Contact: Ed Lee, (202) 376–5786.

j. Comment Date: June 22, 1989.

k. Competing Application: Project No. 10738; Date Filed: Feb. 24, 1989; Due Date: May 25, 1989.

l. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers Coralville Dam and Lake and would consist of: (1) A proposed siphon penstock leading to a new powerhouse that will house a single 9.8-MW generating unit; (2) a new tailrace; (3) a short new 13.8-kV or equivalent transmission line; and apprutenant facilities. The applicant estimates the average annual generator to be 17.38 GWh. The cost of the work

and studies to be performed under the permit would be $15,000.

m. Purpose of Project: The applicant intends to sell the project generation to a local utility or power company.

n. This notice also consists of the following standard paragraphs: A8, A9, A10, B, C, and D2.

10a. Type of Application: Preliminary Permit.

b. Project No.: 10750-000.

c. Date Filed: March 16, 1989.

d. Applicant: Environmental Energy Company.

e. Name of Project: Ririe Water Power Project.

f. Location: On Willow Creek in Bonneville County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Grant D. Durtschi, P.O. Box 502, Driggs, Idaho 83422, (208) 354-2336.

i. FERC Contact: Nanzo T. Coley, (202) 376-9416.

j. Comment Date: June 16, 1989.

k. Description of Project: The applicant would utilize an existing dam under the jurisdiction of the Bureau of Reclamation. The proposed project would consist of: (1) A proposed 14-foot-high, 18-foot-wide inlet structure; (2) a proposed 84-inch-diameter, 1,200-foot-long steel penstock; (3) a proposed powerhouse containing two generating units rated at 1,200 kW and 2,810 kW, respectively; (4) a proposed 4.3-mile-long, 12.5-kV transmission line; and (5) appurtenant facilities. The estimated average annual energy output for the project is 20,000,000 KWh. The applicant estimates that the cost of the work to be performed under the preliminary permit would be $20,000.

l. Purpose of Project: Energy produced at the project would be sold to Utah Power and Light Company.

m. This notice also consists of the following standard paragraph: A5, A7, A9, A10, B, C, and D2.

11a. Type of Application: Preliminary Permit.

b. Project No.: 10752-000.

c. Date filed: March 21, 1989.

d. Applicant: Enerdyne.

e. Name of Project: Snyder Falls Creek.

f. Location: In Chugach National Forest, on Snyder Falls Creek, in the Greater Anchorage Borough, Alaska.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Earl V. Ausman, 3909 Geneve Place, Anchorage, AK 99508, (907) 258-2420.

i. FERC Contact: Michael Spencer at (202) 376-1669.

j. Comment Date: June 15, 1989.

k. Description of Project: The proposed project would consist of: (1) A 30-foot-high concrete arch dam at elevation 1,338 feet; (2) a 3,600-foot-long, 20-inch-diameter pipe; (3) a powerhouse containing a generator with a capacity of 1,260 kW and an average annual generation of 5.7 Gwh; and (4) a 6.8-mile-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $75,000.

l. Purpose of Project: Project power would be sold to Cordova Electric Cooperative.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

12a. Type of Filing: Preliminary Permit.

b. Project No.: 10753-000.

c. Date Filed: March 21, 1989.

d. Applicant: Mormon Peak Pumped Storage Power Company, Inc.

e. Name of Project: Mormon Peak Water Power Project.

f. Location: In Clark County, Nevada.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: R. Steave Creamer, Creamer and Noble, Inc., 435 East Tabernacle, St. George, Utah 84770, (801) 673-4677.

i. Commission Contact: Nanzo T. Coley, (202) 376-9416.

j. Comment Date: June 19, 1989.

k. Description of Project: The proposed project would utilize, in part, lands under the jurisdiction of the Bureau of Land Management. The proposed pumped storage project would consist of: (1) A proposed storage pond that would function as a forebay with a surface area of 52 acres and a storage capacity of 1,200 acre-feet at an elevation of 4,120 feet m.s.l.; (2) a proposed 144-inch-diameter, 2,000-foot-long penstock that would extend from the forebay, through the powerhouse, to the afterbay, which is the same size as the forebay at a lower elevation of 1,200 feet; (3) a proposed powerhouse with a generating capacity of 100 MW and a pumping capacity of 153 MW; (4) a proposed 17.6-mile-long, 132-kv transmission line; and (5) appurtenant facilities. The estimated average annual energy output for the project for peaking power is 219,000 MWh and for pumping power is 335,000 MWh. The applicant estimates that the cost of the work to be performed under the preliminary permit would be $150,000.

l. Purpose of Project: Power produced at the project would be sold to the Nevada Power Company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

13a. Type of Application: Declaration of Intention.

b. Project No.: EL89-21-000.

c. Date Filed: February 27, 1989.

d. Applicant: Southern Energy, Inc.

e. Name of Project: Lutak Inlet Hydroelectric Water Power Project (AK).

f. Location: Unnamed Stream, Haines Township, Haines, Alaska.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. Applicant Contact: John Floreske, Jr., Southern Energy Inc., Post Office Box 34117, Juneau, AK 99803, (907) 789-7544.

i. FERC Contact: Hank Ecton, (202) 376-9073.

j. Comment Date: June 14, 1989.

k. Description of Project: The proposed Lutak Inlet Hydroelectric Water Power Project, a run-of-stream project on an unnamed stream with discharge into Lutak Inlet, would consist of: (1) A 3.5-foot high, 12-foot wide, and 6.5-foot deep concrete intake structure; (2) an 18-inch-diameter, 2,047-foot-long buried penstock with an 18-inch butterfly valve; (3) a powerhouse containing one generating unit with a rated capacity of 250 kilowatts; (4) a tailrace consisting of two 30-inch diameter galvanized steel pipes; (5) a 40-foot-long, 12.47 kV transmission line, tying into an existing Haines Light and Power distribution system; and (6) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. Purpose of Project: Applicant intends to sell energy to the Haines Light and Power Company.

m. This notice also consists of the following standard paragraphs: B, C, and D2.

14a. Type of Application: Major License (over 5 MW).

b. Project No.: 9690–004.
c. Date Filed: September 9, 1988.
d. Applicant: Orange and Rockland Utilities, Inc.
e. Name of Project: Rio Project.
f. Location: On the Mongaup River in Sullivan and Orange Counties, New York.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Applicant Contacts: Mr. Frank E. Fischer, Engineering and Production, Orange and Rockland Utilities, Inc., One Blue Hill Plaza, Pearl River, NY 10965, (914) 352–6000. Mr. G.S.P. Bergen, Mr. Thomas E. Mark, LeBoeuf, Lamb, Leiby & MacRae, 520 Madison Avenue, New York, NY 10022, (212) 715–8372.
i. FERC Contact: Steven H. Rossi; (202) 376–9814.
j. Comment Date: June 12, 1989.
k. Competing Application: Project No. 9754–000; Date Filed: December 30, 1985.
l. Description of Project: The existing project consists of: (1) A concrete gravity dam 100 feet high and 465 feet long, including 264 feet of overflow spillway section with 5-foot-high flashboards; (2) two earth embankment sections, 460 feet long at the eastern abutment and 540 feet long at the western abutment; (3) a concrete intake structure with trashracks and a steel intake gate 13.5 feet high and 11.25 feet wide; (4) a concrete and brick powerhouse 80 feet long and 30 feet wide equipped with two vertical-shaft Francis turbine-generator sets of 5,000 kW each; (5) a surge tank of wood stave and steel 35 feet in diameter, located upstream of the main powerhouse; (6) a tailrace 225 feet long and 45 feet wide with a concrete weir at the outlet; (7) the 150-foot-long, 4.16-kV generator leads connecting each generating unit to the station 4.16-kV bus and three-phase 4.16/69-kV main stepup transformer; and (8) appurtenant facilities. The average annual generation is 31,271,000 kWh. The existing project and dam are owned by Orange and Rockland Utilities, Inc., Pearl River, New York.
m. Purpose of Project: Project power is sold to the customers of Orange and Rockland Utilities, Inc.
n. This notice also consists of the following standard paragraphs: A4, B, C, and D1.
15a. Type of Application: Major License (5MW or less).
b. Project No.: 10481–001.
c. Date Filed: September 9, 1988.
d. Applicant: Orange and Rockland Utilities, Inc.
e. Name of Project: Mongaup Project.
f. Location: On the Mongaup River in Sullivan and Orange Counties, New York.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Applicant Contacts: Mr. Frank E. Fischer, Engineering and Projection, Orange and Rockland Utilities, Inc., One Blue Hill Plaza, Pearl River, NY 10965, (914) 352–6000. Mr. G. S. P. Bergen, Mr. Thomas E. Mark, Leboeuf, Lamb, Lieby & MacRae, 520 Madison Avenue, New York, NY 10022, (212) 715–8372.
i. FERC Contact: Steven H. Rossi; (202) 376–9814.
j. Comment Date: June 12 1989.
Description of Project: The existing project consists of the Mongaup Dam and Black Brook Dam. The existing project and dams are owned by Orange and Rockland Utilities, Inc., Pearl River, New York. This License application was filed pursuant to a preliminary permit held by the applicant.
(i) *Mongaup Facilities.* A 40-foot-high, 156-foot-long concrete gravity spillway dam is located at the crest of Mongaup Falls with 5-foot-high flashboards on its crest. The reservoir has a surface area of about 120 acres, a storage capacity of 76.3 million cubic feet, and a water surface elevation of 935 feet USGS. The reservoir is connected to the Mongaup Powerhouse by an 8-foot-diameter, 2,650-foot-long wood stave penstock. The Mongaup powerhouse has an installed capacity of 4,000 kW. A riveted steel plate surge tank is at the end of the penstock.
The average annual generation is 16,424,000 kWh.The 2.4–kV generator leads connecting the generators to the 2.4/69–kV, three-phase stepup transformer and local 69–kV distribution system are 100 feet long.
(ii) *Black Brook Facilities.* The Black Brook Dam is a 44-foot-long concrete gravity spillway. Crest control is accomplished with an 8-foot-long stop log section and a 34-foot-long flashboard section, each 5 feet high. Total overall height of the dam, flashboard and stop log sections, is 15 feet with the top of the boards located at 948 feet USGS and the top of the dam crest at 943 feet USGS. The reservoir has not storage. Water from the Black Brook Dam is discharged into the Mongaup surge tank by means of a 4-foot-diameter, 4,300-foot-long penstock.
l. Purpose of Project: Project power is sold to the customers of Orange and Rockland Utilities, Inc.
m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

Standard Paragraphs

A3. Development Application. Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the paticular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.
A5. Preliminary Permit. Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.
A7. Preliminary Permit. Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.
A8. Preliminary Permit. Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application mut be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.
A9. Notice of intent. A notice of intent must specify the exact name, business

address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit. A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the numer of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, Room 203–RB, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. Agency Comments. States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over *fish and wildlife, flood control,* navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. Section 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the inssuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. Agency Comments. Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: May 11, 1989, Washington, DC

Lois D. Cashell,

Secretary.

[FR Doc. 89–11697 Filed 5–15–89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89–1263–000, et al.]

Texas Eastern Transmission Corp. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Texas Eastern Transmission Corporation

[Docket No. CP89–1263–000]

May 8, 1989.

Take notice that on April 24, 1989, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP89–1263–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Texas Eastern to (1) render a service involving the firm exchange and transportation of natural gas for certain New Jersey local distribution company (LDC) customers (New Jersey Shippers) of Iroquois Gas Transmission System (Iroquois) and (2) establish new delivery points under existing service agreements with Texas Eastern's New York LDC customers (New York Shippers), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Eastern states that its application is in response to the Commission's Order of January 12, 1989 (46 FERC ¶ 61,012, *Order Ruling on Discreteness of Additional Northeast Projects and Establishing Procedures*), severing the Northeast Project settlement proposals from the open-season proceeding for processing as discrete projects as it relates to the Iroquois Project.

Texas Eastern relates that the Iroquois Project is designed to transport Canadian gas received from TransCanada PipeLines Limited at the U.S./Canada border for, *inter alia,* ultimate redelivery to LDC customers in New York (New York Shippers) [1] and New Jersey (New Jersey Shippers),[2] that the principal component of the Iroquois system is a 369.4-mile pipeline from the U.S./Canada border near Iroquois, Ontario through New York, Connecticut, and across the Long Island Sound to a point of interconnection with the facilities of LILCO at South Commack,

[1] The Brooklyn Union Gas Company (Brooklyn Union), Consolidated Edison Company of New York, Inc. (Con Ed), and Long Island Lighting Company (LILCO).

[2] Elizabethtown Gas Company (Elizabethtown), New Jersey Natural Gas Company (New Jersey Natural), and Public Service Electric and Gas Company (PSE&G).

Suffolk County, New York, and that the New York Shippers and New Jersey Shippers collectively have contracted with Iroquois' for the firm delivery of up to the dekatherm equivalent of 180,000 Mcf per day at a proposed interconnection between Iroquois and LILCO's facilities at South Commack.

Texas Eastern states that, to facilitate the delivery of Iroquois supplies to the New Jersey Shippers, Texas Eastern has entered into an exchange and transportation arrangement with the New York Shippers and the New Jersey Shippers as proposed by its application.

New Delivery Points—New York Shippers

Texas Eastern requests authorization to establish a new delivery point for deliveries under existing and new sales and transportation service agreements at South Commack to be allocated among the New York Shippers as follows:

Company	Maximum daily delivery (Dt) obligations
Brooklyn Union	30,800
Con Ed	8,800
LILCO	15,400
Total	55,000

If requested by the New York Shippers, Texas Eastern would delivery up to a total of the dekatherm equivalent of 55,000 Mcf per day to the New York Shippers according to such other allocation as may be mutually agreed upon, from time to time, by the New York Shippers.

Upon approval of this application, Texas Eastern would file with the Commission superseding Service Agreements under its Rate Schedules DCQ and I and other agreements as appropriate with each of the New York Shippers.

Exchange and Transportation—New Jersey Shippers

Texas Eastern requests authorization to render an exchange and transportation service for the New Jersey Shippers pursuant to a proposed Pro Forma Firm Exchange and Transportation Agreement.

Pursuant to the Agreement, the New Jersey Shippers would release up to the dekatherm equivalent of 55,000 Mcf per day of their daily Iroquois quantities to Texas Eastern at South Commack in exchange for thermally equivalent daily quantities that otherwise would be delivered to the New York Shippers at Texas Eastern's Station 058 on Staten Island.

Specifically, concurrently with the release by the New Jersey Shippers of their daily Iroquois quantities at South Commack to Texas Eastern, the New York Shippers would request delivery of thermally equivalent quantities of gas at South Commack by Texas Eastern for the account of the New York Shippers in satisfaction of the respective rights the New York Shippers would otherwise have to delivery of equivalent dekatherm quantities by Texas Eastern to the New York Shippers at Texas Eastern's Station 058 on Staten Island. Iroquois would redeliver the quantities made available by the New Jersey Shippers to Texas Eastern for the account of the New York Shippers on a firm basis at South Commack. Texas Eastern would deliver the daily quantities that otherwise would be delivered to the New York Shippers at Station 058 to the New Jersey Shippers on a firm basis at their existing delivery points with Texas Eastern in New Jersey. The Maximum Daily Quantities for each of the New Jersey Shippers would be as follows:

Company	Maximum daily delivery (Dt) obligations
Elizabethtown	5,000
New Jersey Natural	40,000
PSE&G	10,000
Total	55,000

Texas Eastern states that to complete the above transaction LILCO has agreed to receive and make available to Brooklyn Union and Con Ed on a firm basis daily quantities equivalent to the total of Brooklyn Union's and Con Ed's quantities delivered by Texas Eastern and Iroquois at South Commack.

For each dekatherm of gas delivered by Texas Eastern to the New Jersey Shippers pursuant to the Agreement, Texas Eastern proposes to charge $.05 per dt of gas delivered. The rate is exclusive of any additional charge as determined pursuant to the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, as effective from time to time, applicable to the Agreement.

The term of the Agreement would be from the in-service date for the Iroquois facilities crossing Long Island Sound from Connecticut to the point of interconnection with LILCO's facilities at South Commack and would continue in force for a primary term of twenty years and in effect from year to year after the end of the primary term unless terminated by any party upon twelve months written notice.

Texas Eastern states that no additional facilities are contemplated at this time.

Texas Eastern alleges that authorization of its proposal herein will provide a cost efficient method for the New Jersey Shippers to receive their Iroquois gas supplies while obviating the need for construction of additional pipeline facilities.

Texas Eastern states that the New York Shippers will file a petition for a declaratory order disclaiming jurisdiction under the Natural Gas Act with respect to the use of the New York Shippers' facility and other operations required to effect the transportation proposed.

Comment date: May 30, 1989, in accordance with Standard Paragraph F at the end of this notice.

2. United Gas Pipe Line Co.

[Docket No. CP89-1278-000]

May 8, 1989.

Take notice that on April 27, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1278-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas on an interruptible basis for Houston Lighting and Power Company (Shipper), under the blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that it proposes to transport for Shipper 515,000 MMBtu on a peak day, 515,000 MMBtu on an average day and 187,975,000 MMBtu on an annual basis. United also states that pursuant to a Transportation Agreement dated February 3, 1989 between United and Shipper (Transportation Agreement) proposes to transport natural gas for Shipper from points of receipt located in Bienville Parish, Louisiana. The points of delivery and ultimate points of delivery are located in multiple counties in Texas.

United further states that it commenced this service February 8, 1989, as reported in Docket No. ST89-2728-000.

Comment date: June 22, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Colorado Interstate Gas Co.

[Docket No. CP89-1280-000]

May 8, 1989.

Take notice that on April 27, 1989, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP89-1280-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a portion of certain natural gas transportation services authorized for Questar Pipeline Company (Questar), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG proposes to abandon the transportation service of up to 25,000 Mcf of natural gas per day on behalf of Questar previously authorized, *inter alia,* by Commission order dated May 1, 1986, in Docket No. CP86-17-000. CIG states that no volumes of natural gas were transported by CIG on behalf of Questar and that the gas transportation agreement dated November 3, 1983, as amended, expired by its own terms on October 31, 1987.

Comment date: May 30, 1989 in accordance with Standard Paragraph F at the end of the notice.

4. Texas Gas Transmission Corp.

[Docket No. CP89-1284-000]

May 8, 1989.

Take notice that on May 1, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-1284-000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Reed Minerals, a Division of Harsco Corporation (Reed Minerals), under Texas Gas' blanket certificate issued in Docket No. CP88-686-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport on an interruptible basis up to 4,000 MMBtu of natural gas on a peak day, 1,000 MMBtu on an average day and 365,000 MMBtu on an annual basis for Reed Minerals. Texas Gas states that it would perform the transportation service for Reed Minerals under Texas Gas' Rate Schedule IT. Texas Gas indicates that it would transport the gas from various receipt points to a delivery point located in Warren County, Ohio.

It is explained that the service commenced March 8, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-2715. Texas Gas indicates that no new facilities would be necessary to provide the subject service.

Comment date: June 22, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. El Paso Natural Gas Co.

[Docket No. CP89-1289-000]

May 8, 1989.

Take notice that on May 2, 1989, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP89-1289-000 a request pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to transport natural gas on behalf of Southern California Gas Company (SCGC), a shipper of natural gas, under El Paso's blanket certificate issued in Docket No. CP88-433-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso proposes to transport, on an interruptible basis, up to 563,750 MMBtu equivalent of natural gas on a peak day, 563,750 MMBtu equivalent on an average day, and 205,768,750 on an annual basis for SCGC. It is stated that El Paso would receive the gas at existing interconnections between El Paso and SCGC and wuld deliver equivalent volumes at various interconnections near the Arizona-California border. It is asserted that the transportation service would be effected using existing facilities and that no construction of additional facilities would be required. It is explained that the transportation service commenced March 11, 1989, as reported in Docket No. ST89-2998.

Comment date: June 22, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Tennessee Gas Pipline Co.

[Docket No. CP89-1288-000]

May 9, 1989.

Take notice that on May 1, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89-1289-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide a transportation service for EnMark Gas Corporation (EnMark), a marketer, under Tennessee's blanket certificate issued in Docket No. CP87-115-000 on June 18, 1987, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes, pursuant to a transportation agreement dated March 7, 1989, as amended March 23 1989, to transport natural gas for EnMark from points of receipt located principally offshore Louisiana and offshore Texas and the states of Texas, Mississippi and Louisiana. It is stated that points of delivery are located principally in the State of Louisiana where Tennessee interconnects with CNG Transmission Corporation and Columbia Gas Transmission Corporation. Tennessee further states that under the contract the maximum daily and average daily quantities are 26,250 dekatherms (dt) and approximately 9,581,250 dt on an annual basis. Tennessee states that service under § 284.223(a) commenced April 1, 1989, as reported in Docket No. ST89-3199-000 filed April 26, 1989.

Comment date: June 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Trunkline Gas Co.

[Docket No. CP89-1291-000]

May 9, 1989.

Take notice that on May 2, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-1289-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Arco Oil and Gas Company (Arco), a producer, under the blanket certificate issued in Docket No. CP86-586-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Trunkline states that pursuant to a transportation agreement dated October 5, 1988, under its Rate Schedule PT, it proposes to transport up to 80,000 dekatherms (dt) per day equivalent of natural gas for Arco. Trunkline states that it would transport the gas from multiple receipt points as shown in Exhibit "A" of the transportation agreement and would deliver the gas, less fuel and unaccounted for line loss, to Columbia Gulf Transmission Company (Centerville) in St. Mary Parish, Louisiana.

Trunkline advises that service under § 284.223(a) commenced March 17, 1989, as reported in Docket No. ST89-2909. Trunkline further advises that it would transport 80,000 dt on an average day and 29,200,000 dt annually.

Comment date: June 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Trunkline Gas Co.

[Docket No. CP89-1293-000]

May 9, 1989.

Take notice that on May 2, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-1293-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for American Central Gas Marketing Company (American), a market, under the blanket certificate issued in Docket No. CP86-586-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Trunkline states that pursuant to a transportation agreement dated October 6, 1988, under its Rate Schedule PT, it proposes to transport up to 25,000 dekatherms (dt) per day equivalent of natural gas for American. Trunkline states that it would transport the gas from multiple receipt points as shown in Exhibit "A" of the transportation agreement and would deliver the gas, less fuel and unaccounted for line loss, to ANR (Patterson)—outlet in St. Mary Parish, Louisiana.

Trunkline advises that service under § 284.223(a) commenced March 11, 1989, as reported in Docket No. ST89-2911. Trunkline further advises that it would transport 20,000 dt on an average day and 7,300,000 dt annually.

Comment date: June 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. United Gas Pipe Line Co.

[Docket No. CP89-1298-000]

May 9, 1989.

Take notice that on May 3, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1298-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation on behalf of Houston Gas Exchange Corporation (Houston) under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United requests authorization to transport, on an interruptible basis, up to a maximum of 103,000 MMBtu of natural gas per day for Houston from receipt points located in Alabama, Louisiana, Mississippi, Texas and offshore Texas to delivery points located in Alabama, Florida, Louisiana, Mississippi, Texas and offshore Texas. United anticipates transporting, on an average day 103,000 MMBtu and an annual volume of 37,595,000 MMBtu.

United states that the transportation of natural gas for Houston commenced March 10, 1989, as reported in Docket No. ST89-3044-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to United in Docket No. CP88-6-000.

Comment date: June 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. United Gas Pipe Line Co.

[Docket No. CP89-1302-000]

May 9, 1989.

Take notice that on May 3, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1302-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of LaSER Marketing Company (LaSER), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United requests authorization to transport, on an interruptible basis, up to a maximum of 103,000 MMBtu of natural gas per day for LaSER from Plaquemine Parish, Louisiana, to Ouachita Parish, Louisiana. United anticipates transporting an annual volume of 37,595,000 MMBtu.

United states that the transportation of natural gas for LaSER commenced January 21, 1989, as reported in Docket No. ST89-2392-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to United in Docket No. CP88-6-000.

Comment date: June 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. United Gas Pipe Line Co.

[Docket No. CP89-1304-000]

May 9, 1989.

Take notice that on May 3, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, made a Prior Notice filing pursuant to §§ 157.205 and 284.223 in Docket No. CP89-1304-000, to provide interruptible transportation service on behalf of Mobil Natural Gas, Inc., a producer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states, that the Interruptible Gas Transportation agreement T1-21-1597, dated May 4, 1988 as amended on February 20, 1989, proposes to transport a maximum daily quantity of 103,000 MMBtu and that service commenced March 22, 1989, as reported in Docket No. ST89-3045-000, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: June 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11600 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1276-000, et al.]

Williams Natural Gas Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Williams Natural Gas Co.

[Docket No. CP89-1276-000]

May 10, 1989.

Take notice that on April 27, 1989, Williams Natural Gas Company (Williams), P. O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-1276-000 an application pursuant to section 7(c) of the Natural Gas Act, as amended, to further amend the certificate of public convenience and necessity issued in Docket No. CP63-188 on December 30, 1963 (30 FPC 1612), as amended by orders issued November 1, 1965 (34 FPC 1209), June 13, 1967 (37 FPC 1048), and June 20, 1977 (58 FPC 2717), which authorized the construction and operation of the Webb Storage Field, Grant County, Oklahoma, in order to obtain authority for the expansion of facilities therein, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

Specifically, Williams seeks authority to increase the storage area by acquiring the gas storage rights under an additional 1040 acres, for a buffer zone, adjacent to the west boundary of the storage leasehold interests previously authorized, and to convert at least two wells existing thereon to pressure relief wells. Additional authority is being sought for the construction of approximately 2 miles of 8-inch gathering line with appurtenant facilities, to be located just east of the present west boundary of the storage field. Also sought is the conversion of two wells presently authorized as injection/withdrawal wells to observation wells; abandonment of the 12-inch and 6-inch gathering lateral connected to those wells; and seven injection/withdrawal wells and the construction of new 6-inch lateral to replace the lateral being abandoned.

Comment date: May 31, 1989, in accordance with Standard Paragraph F at the end of this notice.

2. Transcontinental Gas Pipe Line Corp.

[Docket No. CP89-1273-000, Docket No. CP89-1274-000, Docket No. CP89-1275-000]

May 10, 1989.

Take notice that on April 26, 1989, Transcontinental Gas Pipe Line Corporation (Transco), P. O. Box 1396, Houston, Texas 77251, filed in Docket Nos. CP89-1273-000, CP89-1274-000, and CP89-1275-000,[1] applications, pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon certain firm transportation services to Columbia Gas Transmission Corporation (Columbia), all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

In Docket No. CP89-1273-000, Transco states that it provided transportation service for Columbia pursuant to a related service agreement dated November 22, 1978, under Transco's Rate Schedule X-209. Columbia has indicated to Transco that a decline in production from the source where the gas is being transported is the reason why Columbia requested that Transco terminate the related service agreement. Subsequently, Transco has requested abandonment of the transportation service.

In Docket No. CP89-1274-000, Transco indicated that it is authorized under its Rate Schedule X-172, to provide transportation service for Columbia, pursuant to the related service agreement dated May 23, 1978. Columbia has indicated to Transco, that because Columbia's gas supply has declined through the years to the point where the service is not longer justificable, Columbia requested termination of the related service agreement. As a result, Transco has filed this request.

In Docket No. CP89-1275-000, Transco indicated that it is currently authorized under its Rate Schedule X-211 to transport natural gas for Columbia, pursuant to the related service agreement dated November 27, 1978. In its letters to Transco regarding the firm transportation service, Columbia stated that inasmuch as Transco has not transported gas for Columbia since early 1980, Columbia wishes to terminate the related service agreement. Subsequently, Transco has made this filing.

Transco further states that approval of these applications will not result in any adverse consequences to any other services currently rendered to Transco's customers.

Comment date: May 31, 1989 in accordance with Standard Paragraph F at the end of the notice.

3. Natural Gas Pipeline Company of America

[Docket No. CP89-1281-000]

May 10, 1989.

Take notice that on April 28, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed an application in Docket No. CP89-1281-000 pursuant to sections 4 and 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Natural to institute a gas inventory demand charge (GIDG) tariff, the charges thereunder and the related nomination procedure, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, the proposed tariff would establish new demand charges applicable to all of Natural's sales customers to compensate Natural for standing ready to provide firm sales service. It is indicated that these charges are predicated on customer nominations of sales entitlements. Natural states that there are five basic components of the tariff: (1) The annual nomination of sales services, (2) the procedure and pricing formula for setting Natural's commodity rate, (3) the determination of the total costs to be recovered under the GIDC, (4) the design of the demand charges to recover such costs, (5) the termination of the purchased gas adjustment (PGA), including billing out of the deferred account. Natural also requests pregranted abandonment of reduced sales service which reflects customer nominations.

Natural indicates that the GIDC rates would be recalculated annually and the sales customers would be provided concurrently an opportunity to nominate revised levels of sales service. Natural states that in lieu of its PGA, it proposes

[1] These dockets are not consolidated.

to implement a market-based procedure for setting its commodity rates. It is indicated that it would post rates for each month prior to the end of the preceding month, subject to a cap based on a pricing formula set forth in the application.

Natural indicates that the costs of holding supply are essentially proportional to annual entitlements levels within a certain range. Natural states that for the initial period commencing August 1, 1989, the total cost to Natural of holding supply to meet the current entitlement levels of its customers (613 Bcf annually, with a 2.73 Bcf peak day) is estimated at $272,000,000, which equates to a Monthly Entitlement Demand Rate of 22.20 cents per million Btu and a Daily Demand Rate of $4.15 per million Btu.

Natural indicates that the GIDC consists of two demand charges, the one based on daily contract quantities and the other based on monthly quantity entitlements. Natural states that one-half of the costs to be collected annually through the GIDC would be assigned to each of these charges.

Natural states that in view of the pricing proposed herein, it seeks elimination of its PGA concurrent with the initial effective date of the GIDC charges and for authority to direct bill its sales customers for the balance in its PGA, FERC Account No. 191.

Comment date: May 31, 1989 in accordance with Standard paragraph F at the end of the notice.

4. El Paso Natural Gas Co.

[Docket No. CP89-1283-000]

May 10, 1989.

Take notice that on May 1, 1989, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP89-1283-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to install and operate the Jobe Concrete Plant Sales Tap in order to permit the delivery of natural gas to Southern Union Gas Company (SUG) for resale to Jobe Concrete Company (Jobe Concrete), under the blanket certificate issued in Docket No. CP82-435-000, and pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that it has received a written request from SUG for natural gas service at a point on El Paso's existing 12¾" O.D. Rio Grande Power Plant Line. The request further states that El Paso has been advised by SUG that the requested volumes of natural gas will be utilized to serve the firm industrial natural gas requirements of Jobe Concrete in the city of El Paso, Texas. El Paso states that the initial deliveries are requested to begin by July 1, 1989.

In order to accommodate SUG's request, El Paso proposes to install a 2" O.D. tap and valve assembly, with appurtenances, at a point on El Paso's existing 12¾" O.D. Rio Grande Power Plant Line in El Paso County, Texas. It is also stated that the estimated cost of the sales tap is $2,000. El Paso states it has been advised that SUG will install a regulator, relief valve and meter for ultimate distribution of the requested volumes for industrial use at the proposed sales tap. Further, peak and annual deliveries at the proposed delivery point in the third full year of operation are expected to be 498 Mcf and 21,600 Mcf, respectively. El Paso states that the volumes delivered at the proposed sales tap are within the certificated entitlements of SUG.

It is further stated that the quantities of natural gas to be delivered will be sold by El Paso to SUG for resale in order to accommodate projected Priority 3 requirements.[1] The projected Priority 3 requirements, which have precipitated SUG's request for natural gas herein, will not alter SUG's entitlements under El Paso's Permanent Allocation Plan. The anticipated Priority 3 requirements will, according to El Paso, be accommodated within the existing Monthly Average Day End Use Profiles that currently limit the quantities available to SUG from El Paso for service to Priority 3 requirements under the operation of El Paso's Permanent Allocation Plan. El Paso states that such profiles are set forth on Original Sheet No. 527 of its Volume No. 1 Tariff. Further, El Paso states that the allocation among SUG's Priority 3 customers of deliveries from El Paso for service to Priority 3, including those volumes to be delivered through the proposed Jobe Concrete Sales Tap, is the responsibility of SUG.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Texas Gas Transmission Corp.

[Docket No. CP89-1285-000]

May 10, 1989.

Take notice that on May 1, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-1285-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide an interruptible transportation service for Gas Access Systems, Inc. (Gas Access), under Texas Gas' blanket certificate issued in Docket No. CP88-686-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas proposes to transport up to 50,000 MMBtu equivalent of natural gas on a peak day, an estimated 12,000 MMBtu equivalent of natural gas on an average day, and, on an annual basis, Gas Access estimates a volume of 4,380,000 MMBtu equivalent of natural gas. As proposed by Texas Gas, and pursuant to the gas transportation agreement dated December 1, 1988, the location of points of receipt and delivery are contained in Exhibits B and C, respectively, of the application. It is stated that Gas Access has identified the recipients of the gas as various end-users behind Mountaineer Gas.

Transportation service for Gas Access commenced March 8, 1989, under the 120-day automatic provisions of § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-2714.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Trunkline Gas Co.

[Docket No. CP89-1290-000]

May 10, 1989.

Take notice that on May 2, 1989, Trunkline Gas Company (Trunkline) P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-1290-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of PSI, Inc. (PSI), under the authorization issued in Docket No. CP86-586-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Trunkline would perform the proposed interruptible transportation service for PSI, a marketer of natural gas, pursuant to a transportation agreement dated March 10, 1989 (contract no. T-PLT-1459). The term of the transportation agreement is for a primary term of one month for the initial date for service, and shall continue in effect month-to-

[1] It is stated that the respected priority of service categories applicable to natural gas service rendered by El Paso are set forth in Section 11.2, *Order of Priorities*, of the General Terms and Conditions contained in El Paso's FERC Gas Tariff, First Revised Volume No. 1 (Volume No. 1 Tariff).

month thereafter unless terminated upon 30 days prior written notice by on party to the other party. Trunkline proposes to transport on a peak day up to 100,000 dekatherm; on an average day up to 50,000 dekatherm; and on an annual basis 18,250,000 dekatherm of natural gas for PSI. Trunkline proposes to receive the subject gas from various receipt points in on its system. Trunkline would then transport and redeliver the subject gas, less fuel and unaccounted for line loss, to Columbia Gulf (Centerville) in St. Mary Parish, Louisiana. The ultimate delivery of the transportation volumes would be to various LDC's and end users. It is alleged that PSI would pay Trunkline the effective rate contained in Trunkline's rate Schedule PT, which is currently 16.96 cents, which includes the ACA and GRI surcharge. Trunkline avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's regulations. Trunkline commenced such self-implementing service on March 22, 1989, as reported in Docket No. ST89-3009-000.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Natural Gas Pipeline Company of America

[Docket No. CP89-1307-000]

May 10, 1989.

Take notice that on May 4, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-1307-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas under its blanket authorization issued in Docket No. CP86-582-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural proposes transport natural gas on a firm basis for OXY NGL Inc. (OXY), an end-user of natural gas, pursuant to a firm transportation service agreement dated March 1, 1989 (#IGP-1628). Natural proposes to transport on a peak day up to 35,000 MMBtu per day; on an average day up to 35,000 MMBtu; and on an annual basis 12,775,000 MMBtu of natural gas for OXY. Natural proposes to receive the gas for OXY's account at receipt points located in Texas, Oklahoma, Kansas and Iowa. Natural would redeliver the gas at delivery points located in Louisiana and Texas.

It is explained that the proposed service is currently bieng performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Natural commenced such self-implementing service on March 1, 1989, as reported in Docket No. ST89-3356-000.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Trunkline Gas Co.

[Docket No. CP89-1286-000]

May 11, 1989.

Take notice that on May 1, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP89-1286-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon transportation services it performs for Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline states that it currently provides transportation service for Panhandle pursuant to Rate Schedules T-41, T-58, T-76, T-77, T-79, and T-82 of Trunkline's FERC Gas Tariff, Original Volume No. 2. It is stated that Panhandle and Trunkline are presently negotiating their sales contract which expires on October 31, 1989, and that it is anticipated that a portion of Panhandle's present sales contract demand would be converted to firm transportation. It is indicated that this would provide Panhandle with capacity to transport reserves through the converted transportation capacity. It is further stated that Panhandle has advised Trunkline that much of the gas supply originally necessitating these contracts has been depleted or that gas purchase agreements have been terminated.

Trunkline therefore requests that the Commission issue an order authorizing the abandonment of the above referenced rate schedules effective November 1, 1989. Trunkline states that there would be no abandonment of facilities.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Transcontinental Gas Pipe Line Corp.

[Docket No. CP89-1287-000]

May 11, 1989.

Take notice that on May 1, 1989, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251 filed in Docket No. CP89-1287-000 an application, pursuant to section 7(b) of the Natural Gas Act, requesting permission and approval to abandon an interruptible gas transportation service it performs for Brooklyn Union Gas Company (BUG), all as more fully set forth in the application which is on file with the commission and open to public inspection.

Transco states that it entered into a service agreement with BUG dated August 28, 1978,[1] which provided for the interruptible transportation of up to 20,500 dekatherms per day of liquefied natural gas under Transco's Rate Schedule T Transco further states BUG purchases that gas from Distrigas of Massachusetts Corporation by displacement through the facilities of Tennessee Gas Pipeline Company and Transco. Transco avers that the Commission authorized such service to BUG by order issued December 15, 1978 in Docket No. CP78-508-000 (5 FERC ¶61,234).

Transco further states that on January 12, 1989, BUG provided Transco with written notice of its desire to terminate the service agreement effective January 31, 1989, since it has terminated its purchases of supply associated with the transportation service, and no longer requires such service. Accordingly, Transco seeks authorization, effective January 31, 1989, to abandon such service as requested by BUG.

Comment date: June 1, 1989, in accordance with Standard Paragraph F at the end of this notice.

10. Panhandle Eastern Pipe Line Co.

[Docket No. CP89-1292-000]

May 11, 1989.

Take notice that on May 2, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No.

[1] The service agreement was subsequently superseded effective April 10, 1985.

CP89–1291–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Marathon Oil Company (Marathon), a producer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86–585–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to a transportation agreement dated March 17, 1989, Panhandle requests authority to transport up to 1,500 dt. per day, on an interruptible basis, on behalf of Marathon. Panhandle states that the agreement provides for Panhandle to receive gas from various existing points of receipts along its system in Wyoming and deliver the gas, less fuel used and unaccounted for line loss, to Stauffer Chemical Company in Sweetwater County, Wyoming. Marathon has informed Panhandle that it expects to have the full 1,500 Dt. transported on an average day and based thereon, estimates that the annual transportation quantity would be 547,500 Dt. Panhandle advises that the transportation service commenced on March 20, 1989, as reported in Docket No. ST89–2960, pursuant to Section 284.223 of the Commission's Regulations.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Tennessee Gas Pipeline Company

[Docket No. CP89–1294–000]

May 11, 1989.

Take notice that on May 3, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89–1294–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport gas for Centran Corporation (Centran), a producer and marketer of natural gas, under Tennessee's blanket certificate issued in Docket No. CP87–115–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes to transport on an interruptible basis up to 1,026 dekatherm (dt) of natural gas per day on behalf of Centran pursuant to a transportation agreement dated January 31, 1989, as amended on March 20, 1989, between Tennessee and Centran. Tennessee would receive gas at various existing points of receipt on its system in Louisiana, offshore Louisiana and West Virginia and redeliver equivalent volumes, less fuel and lost and unaccounted for volumes, at various existing points of interconnection on Tennessee's system.

Tennessee further states that the estimated average daily and annual quantities would be 1,026 dt and 374,490 dt, respectively. Service under § 284.223(a) commenced on April 1, 1989, as reported in Docket No ST89–3053.000, it is stated.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Northwest Pipeline Corporation

[Docket No. CP89–1295–000]

May 11, 1989.

Take notice that on May 3, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89–1295–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for the account of NatGas U.S. Inc. (NatGas), a marketer, under Northwest's blanket certificate issued in Docket No. CP86–578–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to transport up to 310,000 MMBtu of natural gas on a peak day, 100 MMBtu on an average day and 36,500 MMBtu on an annual basis for NatGas. Northwest states that it would perform the transportation service for NatGas under Northwest's Rate Scheulde TI–1 for a primary term continuing until February 10, 1990, and continue on a monthly basis thereafter, subject to termination upon 30 days notice. Northwest indicates that it would transport the gas from any transportation receipt point on its system to any transportation delivery point on its system.

It is explained that the service has commenced under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89–3137–000. Northwest indicates that no new facilities would be necessary to provide the subject service.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Northwest Pipeline Corp.

[Docket No. CP89–1297–000]

May 11, 1989.

Take notice that on May 3, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89–1297–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for the account of Southwest Gas Corporation (Southwest), a local distribution company, under Northwest's blanket certificate issued in Docket No. CP86–578–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to transport up to 300,000 MMBtu of natural gas on a peak day, 5,000 MMBtu on an average day and 2,000,000 MMBtu on an annual basis for Southwest. Northwest states that it would perform the transportation service for Southwest under Northwest's Rate Schedule TI–1 for a primary term continuing until January 18, 2008, and continue on a monthly basis thereafter, subject to termination upon 30 days notice. Northwest indicates that it would transport the gas from any transportation receipt point on its system to any transportation delivery point on its system.

It is explained that the service has commenced under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89–3139–000. Northwest indicates that no new facilities would be necessary to provide the subject service.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. United Gas Pipe Line Co.

[Docket No. CP89–1299–000]

May 11, 1989.

Take notice that on May 3, 1989, United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–1299–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on

behalf of LaSER Marketing Company (LaSER), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport on an interruptible basis up to 618,000 MMBtu equivalent of natural gas on a peak day, 618,000 MMBtu equivalent on an average day, and 225,570,000 MMBtu equivalent on an annual basis. It is stated that United would receive the gas for LaSER's account at designated points on United's system and would deliver equivalent volumes at designated points on United's system. It is asserted that the transportation service would be effected utilizing existing facilities and would not require any construction of additional facilities. It is explained that the transportation service commenced March 8, 1989, as reported in Docket No. ST89-3046.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

15. United Gas Pipeline Co.

[Docket No. CP89-1301-000]

May 11, 1989.

Take notice that on May 3, 1989, United States Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1301-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of EnTrade Corporation (EnTrade), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport on an interruptible basis up to 51,500 MMBtu equivalent of natural gas on a peak day, 51,500 MMBtu equivalent on an average day, and 18,797,500 MMBtu equivalent on an annual basis. It is stated that United would receive the gas for EnTrade's account at an existing point on United's system in Rusk County, Texas, and would deliver equivalent volumes at an existing point of interconnection between United and Texas Eastern Transmission Corporation in Attala County, Mississippi. It is asserted that the transportation service would be effected utilizing existing facilities and would not require any construction of additional facilities. It is explained that the transportation service commenced March 16, 1989, as reported in Docket No. ST89-3043.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

16. United Gas Pipeline Co.

[Docket No. CP89-1303-000]

May 11, 1989.

Take notice that on May 3, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1303-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Loutex Energy, Inc. (Loutex), a marketer and producer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport on an interruptible basis up to 51,500 MMBtu equivalent of natural gas on a peak day, 51,500 MMBtu equivalent on an average day, and 18,797,500 MMBtu equivalent on an annual basis. It is stated that United would receive the gas for Loutex's account at an existing interconnection between United and ANR Pipeline Company in St. Mary Parish, Louisiana, and would deliver equivalent volumes at existing points on United's system in Alabama and Florida. It is asserted that the transportation service would be effected utilizing existing facilities and would not require any construction of additional facilities. It is explained that the transportation service commenced January 17, 1989, as reported in Docket No. ST89-2414.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

17. United Gas Pipeline Co.

[Docket No. CP89-1305-000]

May 11, 1989.

Take notice that on May 3, 1989, United States Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP89-1305-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Graham Energy Marketing Corp. (Graham), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport on an interruptible basis up to 123,600 MMBtu equivalent of natural gas on a peak day, 123,600 MMBtu equivalent on an average day, and 45,114,000 MMBtu equivalent on an annual basis. It is stated that United would receive the gas for Graham's account at existing points on United's system in Louisiana, offshore Louisiana, and Mississippi, and would deliver equivalent volumes at existing points on United's system in Louisiana, Florida, Mississippi and Alabama. It is asserted that the transportation service would be effected utilizing existing facilities and would not require any construction of additional facilities. It is explained that the transportation service commenced April 5, 1989, as reported in Docket No. ST89-3097.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

18. Transcontinental Gas Pipe Line Corp.

[Docket No. CP89-1308-000]

May 11, 1989.

Take notice that on May 4, 1989, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP89-1308-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Total Minatome Corporation (Total) under its blanket certificate issued in Docket No. CP88-328-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transco states that the total volume of natural gas to be transported for Total on a peak day would be 3,810,600 dt; on a average day would be 75,000 dt; and on an annual basis would be 27,375,000 dt.

Transco states it would receive the natural gas at various existing receipt points in onshore and offshore Louisiana, onshore and offshore Texas, Mississippi, Pennsylvania, New York and New Jersey. Transco further states it would deliver the natural gas at various existing delivery points in onshore and offshore Louisiana, onshore and offshore Texas, South Carolina, Alabama, North Carolina, Georgia, Virginia, Maryland, Mississippi, Pennsylvania, New York, New Jersey and Delaware.

Transco indicates that it commenced the transportation of natural gas for Total on March 8, 1989, as reported in Docket No. ST89-2751-000, for a 120-day

period pursuant to § 284.233(a) of the Regulations (18 CFR 284.223(a)).

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

19. Texas Gas Transmission Corp.

[Docket No. CP89-1312-000]

May 11, 1989.

Take notice that on May 4, 1989, Texas Gas Transmission Corporation (TGT), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-1312-000 a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authority to provide interruptible transportation service for Wintershall Corporation (Wintershall), under Texas Gas' blanket transportation certificate issued by the Commission on September 15, 1988, in Docket No. CP88-686-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

TGT states it will receive the gas principally from various sources in the offshore areas of Texas and Louisiana and the states of Texas and Louisiana for delivery for the account of Wintershall at various points in the state of Louisiana.

TGT proposes to transport on an interruptible basis up to 40,000 MMBtu of gas on a peak day, approximately 15,000 MMBtu of gas on an average day and an estimated 14,600,000 MMBtu of gas annually. TGT states the transportation service commenced under the 120-day automatic authorization of §§ 284.223(a) of the Commission's Regulations on March 22, 1989, pursuant to a transportation agreement dated November 18, 1988. TGT notified the Commission of the commencement of the transportation service in Docket No. ST89-2947-000 on April 4, 1989.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

20. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP89-1313-000]

May 11, 1989.

Take notice that on May 4, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP89-1313-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas on behalf of Panda Resources, Inc. (Panda), a marketer of natural gas, under Northern's blanket certificate issued in Docket No. CP86-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern proposes to transport on an interruptible basis up to 400,000 MMBtu of natural gas on a peak day, 300,000 MMBtu on an average day and 146,000,000 MMBtu on an annual basis for Panda. Northern states that it would perform the transportation service for Panda under Northern's Rate Schedule IT-1 for initial term of two years and continue on a monthly basis thereafter.

It is explained that the service commenced March 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. T89-3142. Northern indicates that no new facilities would be necessary to provide the subject service.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

21. Transcontinental Gas Pipe Line Corp.

[Docket No. CP89-1315-000]

May 11, 1989.

Take notice that on May 5, 1989, Transcontinental Gas Pipe Line Corporation (Transco) Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP89-1315-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Loutex Energy, Inc. (Loutex), under its blanket authorization issued in Docket No. CP88-328-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public insepction.

Transco would perform the proposed interruptible transportation service for Loutex, pursuant to an interruptible transportation service agreement dated January 10, 1989. The term of the transportation agreement is from the date of the contract and shall continue for a primary term ending February 9, 1989, and thereafter unless cancelled by thirty days prior notice by either party. Transco proposes to transport on a peak day up to 150,000 Dekatherms (dt) per day; on an average day 25,000 dt; and on an annual basis 9,125,000 dt of natural gas for Loutex. Transco further states that consistent with its Rate Schedule IT, Transco may agree to accept for transportation additional quantities of gas. Transco proposes to receive the subject gas at various existing receipt points in Louisiana and Offshore Texas. Transco will deliver the gas at various existing delivery points Georgia, Louisiana and Texas. Transco avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Transco commenced such self-implementing service on March 10, 1989, as reported in Docket No. ST89-3001-000.

Comment date: June 26, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the

issuance of the instant notice by trhe Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11693 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA89-1-48-000 and TA89-1-48-001]

ANR Pipeline Co.; Technical Conference

May 8, 1989.

Pursuant to the Commission's order, which issued on April 27, 1989, a technical conference will be held to resolve the issues raised in the above-captioned proceeding. The conference will be held on Thursday, June 1, 1989, at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11601 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-50-000]

Florida Gas Transmission Co.; Informal Settlement Conference

May 9, 1989.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding on May 25, 1989, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. The settlement conference will be convened following the prehearing conference in the same proceeding and will continue on May 26, if necessary.

Any party, as defined by 18 CFR 385.102(c), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contract Commission Staff Counsel Donald A. Heydt, (202) 357-8570 or John J. Keating, (202) 357-5762.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11602 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2556 Maine]

Central Maine Power Co.; Intent To File an Application for a New License

May 10, 1989.

Take notice that on December 30, 1989, Central Maine Power Company, the existing licensee for the Union Gas Hydroelectric Project No. 2556, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2556 was issued effective May 1, 1965, and expires December 31, 1993.

The project is located on the Messalonskee Stream in Kennebec County, Maine. The principal works of the Union Gas Project include a 36-foot-high, 198-foot-long and masonry dam with an overflow spillway topped with 18-inch flashboards; three retaining walls; a reservoir of 25 acres at elevation 69.1 feet USGS Datum; a powerhouse, integral with the dam, with an installed capacity of 1,500 kw; a transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at Edison Drive, Augusta, ME 04336.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11631 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2396 Vermont]

Central Vermont Public Service Corp.; Intent To File an Application for a New License

May 10, 1989.

Take notice that on December 29, 1988, Central Vermont Public Service Corporation, the existing licensee for the Pierce Mills Hydroelectric Project No. 2396, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2396 was issued effective May 1, 1965, and expires December 31, 1993.

The project is located on the Passumpsic River in Caledonia County, Vermont. The principal works of the Pierce Mills Project include an 18-foot-high, 130-foot-long concrete dam with a grated intake and a overflow spillway at crest elevation 610.5 feet m.s.l.; a reservoir of 25 acres; a 78-inch-diameter, 246-foot-long penstock; a powerhouse with an installed capacity of 250 kW; a transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 77 Grove Street, Ruthland, VT 05701.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11632 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-65-001]

The Inland Gas Co., Inc.; Proposed Changes in FERC Gas Tariff

May 8, 1989.

On May 1, 1989, The Inland Gas Company, Inc. ("Inland") tendered for filing with the Commission certain revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1.

Inland states that the proposed tariff sheets contain revisions to its Rate Schedules FTS and ITS, accepted for filing by order issued in this docket on March 31, 1989, as well as to its currently effective rates applicable to those rate schedules and to the General Terms and Conditions of its FERC Gas Tariff. Inland states that the purpose of the filing is to reflect the changes required by the Commission's March 31, 1989 order in this proceeding.

Copies of the filing were served upon the company's retail customers, interested State Commissions, and to all parties which previously intervened in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and procedures. All such motions or protests should be filed on or before May 15, 1989.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Inland's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11603 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

Jennings Exploration Company; Petition for Waiver

[Docket No. GP89-35-000]

May 10, 1989.

On November 10, 1988, Jennings Exploration Company (Jennings) filed with the Commission a request for waiver of any obligation it might have arising out of sales of gas from the H&F Properties "E" No. 3 Well in the Alligator Slough (Bracero) Field (No. 01780300) in Texas for prices in excess of the applicable maximum lawful ceilings under the Natural Gas Policy Act of 1978 (NGPA). Sales were made to Valero Transmission Company.

Jennings states that in 1980 it completed the discovery well in the Alligator Slough (Bracero) Field and applied to the Texas Railroad Commission for a well category determination thereon. In 1981 it received notification that the field qualified under section 102(c)(1)(C) of the NGPA. It states that in 1982, it completed the subject well (the H&F Properties "E" No. 3) in the Alligator Slough (Olmos) Field and filed a well category determination therefor, and in 1984 recompleted the well in the Alligator Slough (Bracero) Field. Jennings states that it did not consider applying for a well category determination for the recompletion in the Alligator Slough (Bracero) Field because the field had been qualified by the above-mentioned discovery well which was on the same lease just 1200 feet away.

Jennings states that it is a small independent producer with a limited staff which tries to keep abreast of the numerous federal and state regulations and maintains it should not be required to make refunds for inadvertently failing to file for a well category determination for the subject well in the Alligator Slough (Bracero) Field. It further states that making the refunds would cause it financial hardship.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's Rules of Practice and Procedure, 18 CFR § 385.214 and § 385.211 (1988). All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, not later than 30 days following publication of this notice in the **Federal Register.** All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of this petition are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11633 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-162-000]

Ringwood Gathering Co.; Proposed Changes in FERC Gas Tariff

May 9, 1989.

Take notice that Ringwood Gathering Company (Ringwood) on May 4, 1989, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following sheets:

Fourth Revised Sheet No. 1, Superseding Third Revised Sheet No. 1
First Revised Sheet No. 2, Superseding Original Sheet No. 2
First Revised Sheet No. 3, Superseding Original Sheet No. 3
Twelfth Revised Sheet No. 4, Superseding First Substitute Eleventh Revised Sheet No. 4
First Revised Sheet No. 4-A, Superseding Original Sheet No. 4-A
First Revised Sheet No. 4-B, Superseding Original Sheet No. 4-B
First Revised Sheet No. 26, Superseding Original Sheet No. 26
Original Sheets No. 57-A through 57-P, inclusive
Twelfth Revised Sheet No. 59, Superseding Eleventh Revised Sheet No. 59
First Revised Sheet No. 89, Superseding Substitute Original Sheet No. 89
Original Sheet No. 89-A
First Revised Sheet No. 101
First Revised Sheet No. 110
First Revised Sheet No. 121

By means of the above tariff sheets Ringwood proposes a decrease in its present interruptible and firm transportation rates in effect since approval under consolidated Docket Nos. RP85-210-000 and CP86-116-000.

Copies of this filing have been served on the company's jurisdictional customers and appropriate state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 16, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 11604 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-7-001]

Southern Natural Gas Co.; Proposed Changes to FERC Gas Tariff

May 8, 1989.

Take notice that on May 1, 1989, Southern Natural Gas Company (Southern) tendered for filing the following revised sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1, with proposed effective dates of April 1, 1989:

Substitute Eighty-Fourth Revised Sheet No. 4A
Substitute Eighty-Fifth Revised Sheet No. 4A

Southern states that the proposed tariff sheets are being submitted in compliance with the Commission's Order of March 31, 1989 in Docket No. TA89-1-7-000, Southern's first annual PGA filing. The aforesaid tariff sheets reflect separate statements of the proposed current deferred account surcharge and the three year deferred account surcharge authorized in Docket No. TA88-3-7-000, but are otherwise identical to the proposed tariff sheets originally submitted by Southern in connection with its annual and interim PGA filings in Docket Nos. TA89-1-7-000 and TF89-2-7-000, respectively.

Copies of Southern's filing were served upon all of Southern's jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (§§ 385.214, 385.211). All such motions or protests should be filed on or before May 15, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11605 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-42-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

May 8, 1989.

Take notice that on May 2, 1989, Transwestern Pipeline Gompany (Transwestern) tendered for filing as part of its FERC Gas Tariff. Second Revised Volume No. 1, the following tariff sheet to be effective July 1, 1989:

62nd Revised Sheet No. 5

Transwestern states that 62nd Revised Sheet No. 5 is filed pursuant to Transwestern's Purchased Gas Adjustment provision set forth in Article 19 of the General Terms and Conditions of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1. The Current Adjustment reflected here in represents a decrease of $0.1532/dth as measured against Transwestern's Quarterly PGA filing in Docket No. TQ89-3-42 (PGA 89-3), which became effective on April 1, 1989. The Surcharge Adjustment reflects a decrease of $0.0301/dth as measured against Transwestern's Quarterly PGA filing in Docket No. TA89-1-42 (PGA 89-1), which became effective on October 1, 1988. The Surcharge Adjustment is based upon the current deferral balance for the twelve month period ending February 28, 1989.

Transwestern states that this filing contains its assessment of past performance for the period June 1, 1988 through February 28, 1989 which reflects actual gas costs to be below the 103% ceiling of the computed projected costs for intervals one, two, and four. Interval three reflects an actual cost of gas over the 103% ceiling. Transwestern respectfully requests the Commission approve the recovery of the amount for Interval Three that exceeded the 103% ceiling through the Surcharge.

The proposed effective date for the tariff sheet listed above is July 1, 1989.

Copies of the filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protest should be filed on or before May 30, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11606 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-38-002 and RP89-99-002]

U-T Offshore System; Compliance Filing

May 10, 1989.

Take notice that on May 5, 1989, U-T Offshore System (U-TOS) filed certain tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, to be effective May 5, 1989.

U-TOS states that this filing is made in compliance with the Commission's Order issued March 31, 1989.

U-TOS states that because of its desire to conform this filing to a similar filing made by High Island Offshore System on May 1, 1989 in Docket Nos. RP89-37-000 and RP89-82-000, it was unable to complete this filing by May 1, 1989.

U-TOS states that it does not agree with all of the revisions that it was directed to make. U-TOS states that the revised tariff sheets should not be interpreted as a waiver of its legal rights to contest any part of the Commission's March 31 order in these dockets and the tariff sheets are filed without prejudice to such rights.

U-TOS states that copies of this filing are being served on all parties to these consolidated proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such motions or protests should be filed on or before May 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11634 Filed 5-15-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-114-017]

Williams Natural Gas Co.; Proposed Changes in Commission Gas Tariff

May 9, 1989.

Take notice that on May 1, 1989, Williams Natural Gas Company (WNG) tendered for filing revised tariff sheets to its FERC Gas Tariff.

WNG submits that the sheets are filed in compliance with the Commission's order of February 1, 1989 in this docket. Ordering paragraph (C) of the order directed WNG to refile tariff sheets no more than 60 days prior to June 1, 1989, reflecting rates on a dekatherm basis and instituting thermal billing beginning June 1, 1989.

WNG states that no rate change is proposed. Even though WNG's resale sales average 999 Btu's per Mcf which should result in a slight resale rate increase when going to a dekatherm billing basis, WNG is proposing to waive this slight increase because the rates being adjusted are being collected subject to refund under Docket No. RP87-33. WNG has pending before the Commission a Stipulation and Agreement dated February 2, 1989 in Docket Nos. RP87-33, et al. which includes rates on a dekatherm basis which are lower in all instances than the dekatherm rates proposed in this filing. Therefore, any increase in rates related to this filing would merely increase WNG's refund once the RP87-33 Stipulatlon and Agreement rates take effect.

WNG requests waiver of Article 5 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1 to permit sales customers until January 1, 1990 to provide volume information on an Mcf basis.

WNG states that copies of the filing were mailed to all of WNG's jurisdictional customers, and interested state commissions, as well as the parties listed on this Commission's official service list compiled in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice snd Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before May 16, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken but will not service to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-11607 Filed 5-15-89; 8:45am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed During the Week of April 7 Through April 14, 1989

During the Week of April 7 through April 14, 1989, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regualtions, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

May 9, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of April 7 through April 14, 1989]

Date	Name and location of applicant	Case No.	Type of submission
4/12/89	Arco/Bud's Arco, Hardin, KY	RR304-2	Request for modification/rescission. If granted: The April 5, 1989 Decision and Order issued to Bud's Acro (Case No. RF304-950) would be modified, regarding the application in the Atlantic Richfield Company refund proceeding.
4/12/89	Roy D. Woodruff, Byron, CA	KFA-0276	Appeal of an information request denial. If granted: The March 18, 1989 Freedom of Information Request Denial issued by the San Francisco Operations Office would be rescinded and Mr. Woodruff would receive access to documents relating to reports prepared by Drs. George Dacey and John Foster.
4/13/89	Chuck Hansen, Sunnyvale, CA	KFA-0277	Appeal of an information request denial. If granted: The April 5, 1989 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded and Chuck Hansen would receive access to anmes of devices associated with U.S. nuclear testing and detonation between July 16, 1945 and December 31, 1962.
4/13/89	Gulf/Crutcher Oil Company, Washington, DC.	RR300-1	Request for modification/rescission. If granted: The March 17, 1989 Decision and Order issued to Crutcher Oil Company (Case No. RF300-2738) would be modified regarding the application in the Gulf Oil refund proceeding.
4/14/89	Frank L. Bordell, NY	KFA-0178	Appeal of an information request denial. If granted: The March 24, 1989 Freedom of Information Request Denial issued by the Office of Naval Reactors would be rescinded and Mr. Bordell would receive access to documents related to the activities at the Knolls Atomic Power Laboratory.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund application	Case No.
9/21/87	Academy Acres Gulf	RF300-10779
4/7/89	Yuska Oil Co	RF310-338
4/7/89 thru 4/14/89.	Crude Oil Refund, Applications Received.	RF272-75436 thru RF272-75441
4/7/89 thru 4/14/89.	Murphy Oil Refund, Applications Received.	RF309-1289 thru RF309-1305
4/7/89 thru 4/14/89.	Atlantic Richfield Refund, Applications Received.	RF304-8350 thru RF304-8652

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/name of refund application	Case No.
4/7/89 thru 4/14/89.	Exxon Refund, Applications Received.	RF307-9794 thru RF307-9877
4/7/89 thru 4/14/89.	Shell Refund, Applications Received.	RF315-5138 thru RF315-5292
4/10/89	Amoco/Arkansas	RQ251-511
4/10/89	Donald R. Irwin	RF314-26
4/10/89	Mechanicsville Gulf Station.	RF300-10778
4/10/89	Hi-Test Gas Company	RF313-123

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/name of refund application	Case No.
4/10/89	Tesoro Petroleum Corp.	RF313-124
4/13/89	Clifton Gulf	RF300-10780

[FR Doc. 89-11729 Filed 5-15-89; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed During the Week of April 14 Through April 21, 1989

During the Week of April 14 through April 21, 1989, the applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

May 9, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of April 14 through April 21, 1989]

Date	Name and location of applicant	Case No.	Type of submission
4/18/89	Time Oil Company, Washington, DC	KEF-0129	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the December 13, 1982 Consent Order entered into with Time Oil Company.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund application	Case No.
2/9/88	O'Neill Tire & Supply	RF310-339
4/14/89 thru 4/21/89.	Crude Oil Refund, Applications Received.	RF272-75442 thru RF272-75450
4/14/89 thru 4/21/89.	Murphy Oil Refund, Applications Received.	RF309-1306 thru RF309-1310
4/14/89 thru 4/21/89.	Atlantic Richfield Refund, Applications Received.	RF304-8653 thru RF304-8838
4/14/89 thru 4/21/89.	Exxon Refund, Applications Received.	RF307-9878 thru RF307-9901
4/14/89 thru 4/21/89.	Shell Refund, Applications Received.	RF315-5293 thru RF315-5462
4/14/89	Torres Gulf	RF300-10784
4/14/89	Buffalo Service, Inc	RF314-27
4/17/89	Brown Transport Corp	RF300-10781
4/17/89	Demolli's Gulf Service Center.	RF300-10782
4/17/89	Peterson Petroleum, Inc.	RF300-10783
4/17/89	Aftro Car Care	RF313-125
4/17/89	Zeigler's Gulf Svc	RF300-10785
4/17/89	L.D. Rhodes Oil Company.	RF300-10786
4/17/89	Riley's Gulf	RF300-10787
4/18/89	Orleans Crown	RF313-126
4/18/89	Gilbert Enterprises, Inc	RF313-127
4/18/89	Alt's Crown	RF313-128
4/18/89	Brisentine Oil Co., Inc	RF313-129
4/18/89	Acme, Inc	RF313-130
4/18/89	Triton, Inc	RF313-131
4/18/89	Al Oil Co. of Etowah Cty.	RF313-132
4/18/89	Russ's Gulf	RF300-10788
4/19/89	Poco Gas Corp	RF313-133

[FR Doc. 89-11730 Filed 5-15-89; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders

Week of April 10 through April 14, 1989.

During the week of April 10 through April 14, 1989 the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Glen Milner, 4/13/89, KFA-0127

Glen Milner filed an Appeal from a partial denial by the Albuquerque Operations Office of a request for information which he had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the authorizing official properly withheld portions of the requested material under Exemption 3 of the FOIA.

Natural Resources Defense Council, 4/13/89, KFA-0132

The Natural Resources Defense Council filed an Appeal from a denial by the Director, DOE Office of Classification, of a Request for Information which it had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the documents at issue were properly withheld under Exemption 3. The issue considered in the Decision and Order involved whether a photograph of the W68 warhead/MK 3 reentry vehicle used on the Poseidon Submarine-Launched Ballistic Missile system was still properly classified as Secret Restricted Data.

Remedial Order

Tampimex Oil International, Ltd., 4/14/89, KRO-0570

The DOE issued a final Remedial Order to Tampimex Oil International, Ltd. (Tampimex). Although notified of the pendancy of this proceeding, Tampimex never filed a Notice of Objection or other response to the Proposed Remedial Order (PRO) that the Economic Regulatory Administration had issued to the firm on July 24, 1987. As a result, the DOE found that Tampimex was deemed to consent to the issuance of the PRO in final form. The DOE further found that the PRO established a prima facie case of violations of 10 CFR 212.186 and liability therefore. However, the DOE modified the remedial provisions of the PRO to require Tampimex to remit the amount of overcharges, $8,524,448 plus appropriate interest, to the DOE with instructions that the DOE will deposit the sum into a suitable DOE escrow account for ultimate disbursement pursuant to procedures set forth in 10 CFR Part 205, Subpart V.

Motion for Discovery

Carbonit Houston, Inc., Richard W. Johnson, 4/11/89, KRD-0620

Carbonit Houston, Inc. and Richard W. Johnson (Respondents) filed a Motion for Discovery in connection with their Statement of Objections to a Proposed Remedial Order (PRO) that was issued to the Respondents by the Economic Regulatory Administration (ERA) on November 13, 1987. In the PRO, the ERA alleges that during the period January 1978 through December 1978, the Respondents engaged in a

practice known as "layering," prohibited under the crude oil reseller price rules set forth at 10 CFR Part 212, Subpart L. 10 CFR 212.186 (the layering rule). The ERA also charges that Respondents' pricing practices were in violation of 10 CFR 210.62(c) (the normal business practice rule) and 10 CFR 205.202 (the anti-circumvention rule). In their Motion for Discovery, the Respondents sought the ERA's responses to 29 mostly multipart interrogatories and production of documents, relating to: (i) The legal and factual bases of the PRO; (ii) contemporaneous construction discovery of the pricing regulations at issue; (iii) administrative record discovery of the layering rule, and the ERA's policy of assessing interest in PRO cases; and (iv) the ERA's audit and preparation of the PRO. In considering the Motion for Discovery, the DOE determined that the Respondents had failed to show that the discovery requested would lead to relevant and material factual evidence in support of their defenses to the PRO. Accordingly, the Respondents' Motion for Discovery was denied.

Implementation of Special Refund Procedures

Butler Fuel Corporation, 4/11/89, KEF-0094

The DOE issued a Decision and Order implementing a plan for the distribution of $50,000 received pursuant to a Release issued by the U.S. Department of Justice on March 23, 1987. The DOE determined that these funds should be distributed to retail customers that purchased kerosene and No. 2 heating oil from Butler during the period November 1, 1973 through April 30, 1974. The specific information to be included in Applications for Refund is set forth in the Decision.

Refund Applications

Atlantic Richfield Company/ Canyonland Petroleum, Inc., 4/10/89, RF304-1506

The DOE issued a Decision and Order concerning an Application for Refund filed by Canyonland Petroleum, Inc. in the Atlantic Richfield Company (ARCO) special refund proceeding. The applicant, a reseller, requested a refund based on documented purchases of 26,112,277 gallons of ARCO propane. The applicant did not attempt to demonstrate injury and elected to limit its refund to 41% of its full volumetric allocation of the ARCO consent order funds. The refund granted in this Decision totaled $10,150 ($7,869 in principal and $2,281 in interest).

Crown Central Petroleum Corporation/ County Fuel Company Inc., et al., 4/10/89, RF313-62 et al.

The DOE issued a Decision and Order granting applications filed by seven purchasers of Crown refined petroleum products in the Crown Central Petroleum Corporation special refund proceeding. According to the procedures set forth in *Crown Central Petroleum Corp.*, 18 DOE ¶ 85,326 (1988), each applicant was found to be eligible for a refund based on the volume of products it purchased from Crown. The total amount of refunds approved in this Decision was $38,694, representing $33,328 in principal plus $5,366 in accrued interest.

Crude Oil Supplemental Refund Distribution, 4/11/89, RA272-00002.

The DOE issued a Decision and Order authorizing the Office of the controller to disburse supplemental crude oil refunds to 44,282 refund recipients that had previously received refunds at the rate of $.0002 per gallon of eligible refined petroleum products. The DOE determined that sufficient funds were available for additional refunds at the rate of $.0006 per gallon. The total additional refund approved was $54,106,718. The DOE stated that future crude oil refunds will be paid at the rate of $.0008 per gallon.

Exxon Corporation/ Bayside Fuel Oil Depot Corp. et al. 4/12/89, RF307-2706 et al.

The DOE issued a Decision and Order concerning 46 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the Applicants purchased directly from Exxon and was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant is eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $35,883 ($30,580 principal plus $5,303 interest).

Exxon Corporation/Crossroads Exxon et al., 4/13/89, RF307-591 et al.

The DOE issued a Decision and Order concerning 37 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the applicants purchased directly from Exxon and was either an end-user or a reseller whose allocable share is less than $5,000. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $35,798 ($30,511 principal and $5,287 interest).

Exxon Corporation/J. Marvin Comeaux et al., 4/14/89, RF307-2046 et al.

The DOE issued a Decision and Order concerning 47 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the Applicants purchased directly from Exxon and was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $47,578 ($40,549 principal plus $7,029 interest).

Exxon Corporation/Waldo's Exxon, et al., 4/12/89, RF307-307 et al.

The Office of Hearings and Appeals of the Department of Energy issued a Decision and Order granting 46 Applications for Refund from consent order funds obtained from Exxon Corporation. Each Applicant sought a refund of less than $5,000, and was therefore presumed to have suffered injury as a result of Exxon's alleged overcharges. The sum of the refunds granted is $48,278.

Exxon Corporation/Whitaker Oil Company, 4/12/89, RF307-4844

The DOE issued a Decision and Order concerning an Application for Refund filed in the Exxon Corporation special refund proceeding by Whitaker Oil Company (Whitaker). Whitaker purchased directly from Exxon and is a reseller whose allocable share is less than $5,000. On January 23, 1989, the DOE issued a Proposed Decision and Order (PDO) tentatively determining that Whitaker's application be denied due to a false statement made by Whitaker in its application. The firm was permitted to file an explanation or an objection to the PDO; Whitaker's subsequent explanation convinced the DOE that Whitaker did not willfully provide false information. Thus, Whitaker's Application for Refund was approved and the firm was granted a refund equal to its allocable share plus interest. That amount was determined to be $3,360 ($2,864 in principal and $496 in interest). However, due to the fact that Whitaker is currently involved in an enforcement proceeding, the refund was not issued directly to the firm, but rather, was placed in a separate interest-bearing escrow account. At a later date, the DOE will issue a Supplemental Order governing the disbursement of the escrowed funds.

Gulf Oil Corporation/Bayou Gulf Service Station, et al., 4/12/89, RF300-7800, et al.

The DOE issued a Decision and Order concerning 62 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision is $109,057.

Gulf Oil Corporation/Futch's Gulf Service Station, et al., 4/13/89, RF300-25, et al.

The DOE issued a Decision and Order concerning 11 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision is $15,281.

Gulf Oil Corporation/LeBlanc's Gulf Service, 4/12/89, RF300-7278

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding by Federal Refunds, Inc. on behalf of LeBlanc's Gulf Service. The application was approved using a presumption of injury. For the reasons cited within this Decision, the OHA determined that it lacks confidence in Federal Refunds' ability to represent claimants in an accurate and efficient manner. Thus, the OHA decided to send the refund checks of LeBlanc's, and of future FRI applicants in the Gulf proceeding, directly to the claimants themselves rather than to FRI. The total refund granted to LeBlanc's is $1,478.

Gulf Oil Corporation/M.A. Bell, Dist., 4/13/89, RF300-5483

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding by M.A. Bell, Dist., a consignee and reseller of Gulf refined products. M.A. Bell, Dist.'s allocable share as a reseller is less than $5,000, and its total principal refund is less than $5,000. Therefore, it was not required to provide a detailed demonstration that it absorbed Gulf's alleged overcharges. The refund granted to M.A. Bell, Dist. in this Decision and Order is $2,354.

Gulf Oil Corporation/Truman R. Sanford, 4/13/89, RF300-5229

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding by Truman R. Sanford, a consignee and reseller of Gulf refined products. Truman R. Sanford's allocable share as a reseller is less than $5,000, and its total principal refund is less than $5,000. Therefore, it was not required to provide a detailed demonstration that it absorbed Gulf's alleged overcharges. The refund granted to Truman R. Sanford in this Decision and Order is $4,551.

Gulf Oil Corporation/W.E. Lamb, 4/14/89, RF300-5227

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding by W.E. Lamb, a consignee and reseller of Gulf refined products. W.E. Lamb's allocable share as a reseller is less than $5,000, and its total principal refund is less than $5,000. Therefore, it was not required to provide a detailed demonstration that it absorbed Gulf's alleged overcharges. The refund granted to W.E. Lamb in this Decision and Order is $3,681.

Gulf Oil Corporation/Wellman Oil Company, Inc., 4/13/89, RF300-5220

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding by Wellman Oil Company, Inc., a consignee and reseller of Gulf refined products. Wellman Oil Company, Inc.'s allocable share as a reseller is less than $5,000, and its total principal refund is less than $5,000. Therefore, it was not required to provide a detailed demonstration that it absorbed Gulf's alleged overcharges. The refund granted to Wellman Oil Company, Inc. in this Decision and Order is $3,232.

Gulf Oil Corporation/Whitfield Gulf Station, 4/14/89, RF300-10776

The OHA issued a Supplemental Order concerning an Application for Refund filed by Darrell MacDougald on behalf of Whitfield Gulf Station (Whitfield Gulf) in the Gulf Oil Corporation special refund proceeding. On February 23, 1989, the DOE issued a Decision granting Darrell MacDougald a refund of $859 for Whitfield Gulf (Case No. RF300-1800). *Gulf Oil Corporation/Avis Rent-A-Car, et al.*, 18 DOE ¶ 85,707. However, Donnell Whitfield, the apparent owner of Whitfield Gulf during the consent order period, also filed in the Gulf proceeding (Case No. RF300-10162). Since it was not clear which of the two applicants, Darrell MacDougald and Donnell Whitfield, was entitled to a refund for Whitfield Gulf's purchases, the OHA rescinded the refund granted to Darrell MacDougald in Avis Rent-A-Car, *et al.* until we could determine who was the proper recipient of the refund.

Irish's Big Sky Standard, et al., 4/13/89, RF272-48892 et al.

The DOE issued a Decision and Order denying nine Applications for Refund filed in the Subpart V crude oil refund proceedings. Each applicant was either a reseller or a retailer of petroleum products during the period August 19, 1973 through January 27, 1981. Because none of the applicants demonstrated that they were injured due to the crude oil overcharges, they were ineligible for a crude oil refund.

Prime Properties, Inc., 4/14/89, RF272-2691

The DOE issued a Decision and Order denying an Application for Refund filed by Prime Properties, Inc. (Prime) in the Subpart V crude oil refund proceedings. Prime was a reseller of petroleum products during the period August 19, 1973 through January 27, 1981. Because Prime has not demonstrated that it was injured due to the crude oil overcharges, it is ineligible for a crude oil refund.

Stanford Oil Company, 4/13/89, RF272-71892

The DOE issued a Decision and Order denying an Application for Refund filed by Stanford Oil Company (Stanford) in the Subpart V crude oil refund proceedings. Stanford was a reseller of petroleum products during the period Augsust 19, 1973 through January 27, 1981. Because Stanford has not demonstrated that it was injured due to the crude oil ovecharges, it was ineligible for a crude oil refund.

Stinnes Interoil, Inc./Tesoro Petroleum Corporation, 4/11/89, RF125-11

The DOE issued a Decision and Order concerning an application for Supplemental Order filed by Tesoro Petroleum Corporation (Tesoro) in the Stinnes Interoil, Inc. special refund proceeding. In its application, Tesoro requested that the DOE disburse the balance of a refund granted in an earlier decision. That refund had been placed in a special escrow account pending the resolution of enforcement proceedings involving Tesoro. In view of the execution of a consent order resolving the enforcement proceedings, the DOE granted Tesoro's application and disbursed $68,535.20 in principal plus all interest accrued on that amount to the firm.

Suburban Propane Gas Corp./Vanguard Petroleum Corp., 4/14/89, RF299-53

The DOE issued a Decision and Order granting an Applications for Refund filed by Vanguard Petroleum Corporation, a purchaser of refined petroleum products, in the Suburban Propane special refund proceeding. According to the procedures set forth in *Suburban Propane Gas Corporation*, 16 DOE ¶ 85,382 (1987), reseller applicants who choose to claim a full volumetric

refund over $5,000 must demonstrate that they were injured by Suburban's alleged overcharges. We applied a three-step competitive disadvantage analysis to Vanguard's purchases and found that the majority of Vanguard's purchases from Suburban had been made at above-market prices. That and the fact that Vanguard's cost banks, gross excess cost, and net excess cost greatly exceeded Vanguard's volumetric share led us to conclude that Vanguard was injured by its purchases from Suburban. Therefore, Vanguard was found to be eligible for a full volumetric refund. The total refund approved in this Decision was $34,153, consisting of $27,434 in principal plus $6,719 in accrued interest.

Dismissals

The following submissions were dismissed:

Name and Case No.

C & C James Randy Ln.; RF272-66099
Charles K. Bentson; RF272-74655
Charles Luster; RF272-51294
Clarence E. Georgeson; RF272-69447
Clarence Schwcmams; RF272-65144
David McFarland; RF272-67621
Donald Boyce; RF272-69885
Earl J. Freiser & Sons; RF272-66838
Ernesh Righetti, Corp.; RF272-51185
Ernest Duboad; RF272-60737
Frank Miller, Jr.; RF272-50308
Gary E. Murray; RF272-52191
George P. Sandlin; RF272-53786
Harold A. Spencer; RF272-50336
Harold Christensen/Montage Gulf; RF300-5880
Henry Peters; RF272-60378
Heyward Lang; RF272-53692
Ivan Wickes; RF272-70586
John's Gulf Service Center/John S. Forgue; RF300-199
Juddy A. Perry; RF272-56630
Kaldis Gulf Car Care Center; RF300-176
Mar-G Dairy; RF272-61411
Mark E. Cansler; RF272-67649
Marvin L. Walton; RF272-60382
Maurice J. Cersovsky; RF272-50942
McLean Trucking Company; RF272-67301
Melvin Bochnake; RF272-69315
Occupational Health Legal Rights Foundation; KFA-0255
Patricia Neubauer; RF272-74334
Paul Cersousky; RF272-51177
Richard & William Devore; RF272-50948
Robert D. Baldwin; RF272-73663
Robert McCleffanf; RF272-50253
Robert N. Houston; RF272-56465
Ropplawn Farm; RF272-60274
Roosevelt Williams; RF272-70728
Steve Shell; RF272-65067
Steven C. Williams; RF272-56084
Walter Wendschuh; RF272-56303
Wilfred Deshano; RF272-51035
William B. Wilbur; RF272-69225
William Giersch; RF272-50194
William H. Voegele; RF272-57711
William Hye; RF272-73320

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in "Energy Management: Federal Energy Guidelines," a commercially published loose leaf reporter system.

May 9, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 89-11731 Filed 5-15-89; 8:45 am]

BILLING CODE 6450-01-M

Filing Deadline in Special Refund Proceeding No. KEF-0087

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of final deadline for filing applications for refund in special refund proceeding KEF-0087.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy hereby officially sets the final deadline for filing Applications for Refund from the escrow account established pursuant to a Consent Order entered into between the DOE and Exxon Corporation (Exxon), *Special Refund Proceeding No.* KEF-0087. The final deadline is July 14, 1989. *See Exxon Corp./Fairland Exxon,* 18 DOE ¶ 85, _____ (May 4, 1989) (Case No. RF307-2733 *et al.*).

FOR FURTHER INFORMATION CONTACT: Ms. Caroline Barnes, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4921.

SUPPLEMENTARY INFORMATION: On July 14, 1988, the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) issued a Decision and Order setting forth final refund procedures in order to distribute the monies in the escrow account established in accordance with the terms of a Consent Order entered into by the DOE and Exxon Corporation (Exxon). *See Exxon Corp.,* 17 DOR ¶ 85,590 (1988). That Decision established February 18, 1989 as the filing deadline for the submission of refund applications. Since that date, the OHA has routinely granted extensions of time for good cause. *See* 10 CFR 205.285. However, due to the length of time that has passed since the commencement of the application period, the DOE has determined that refund applications filed in the Exxon Corporation special refund proceeding that are postmarked after July 14, 1989 will be summarily dismissed. *See Exxon Corp./Fairland Exxon,* 18 DOE ¶ 85, _____ (May 4, 1989) (RF307-5384 *et al.*). Any unclaimed funds remaining in the Exxon escrow account after all pending claims are resolved will be made available for indirect restitution pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. 4501.

Dated: May 9, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 89-11732 Filed 5-15-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3571-5]

Science Advisory Board, Environmental Health Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Environmental Health Committee of the Science Advisory Board will be held on June 1-2, 1989 in the Administrator's Conference Room (1103, West Tower), U.S. Environmental Protection Agency, 401 M Street SW., Washington DC. This meeting will start at 9:00 a.m. on June 1, and will adjourn no later than 5 p.m. June 2, and is open to the public.

The main purpose of this meeting will be to review reports developed by Subcommittees of the Health Committee (including the Drinking Water, Halogenated Organics, and Metals Subcommittees) receive briefings from Agency officials on current program activities, and discuss the current state-of-the-art in structure activity research.

An Agenda for the meeting is available from Mary Winston, Staff Secretary, Science Advisory Board (A101F), U.S. Environmental Protection Agency, Washington DC 20460 (202-382-2552). Members of the public desiring additional information should contact Mr. Samuel Rondberg, Executive Secretary, Environmental Health Committee by telephone at the telephone number noted above or by mail to the Science Advisory Board (A101F) 401 M Street SW., Washington, DC 20460 no later than c.o.b. May 22, 1989. Anyone wishing to make a presentation at the meeting should forward a written statement to Mr. Rondberg by the date noted above. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual

or group making an oral presentation will be limited to a total time of ten minutes.

Dated: May 9, 1989.

Donald Barnes,

Director, Science Advisory Board.

[FR Doc. 89-11701 Filed 5-15-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59867; FRL-3571-8]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984 (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 28 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 89-82, 89-84—April 24, 1989.

Y 89-86, 89-87—April 30, 1989.

Y 89-89, 89-90, 89-91, 89-92, 89-93, 89-94, 89-95, 89-96, 89-97, 89-98, 89-99—May 1, 1989.

Y 89-102, 89-103—May 2, 1989.

Y 89-104—May 3, 1989.

Y 89-105—May 4, 1989.

Y 89-106, 89-107, 89-108, 89-109—May 7, 1989.

Y 89-112—May 9, 1989.

Y 89-114—May 16, 1989.

Y 89-115, 89-116—May 18, 1989.

Y 89-117—May 17, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M Street SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 89-82

Manufacturer: Confidential.

Chemical. (S) Aliphatic polyester urethane.

Use/Production. (G) Used in coatings applied by industrial manufacture. Prod. range: Confidential.

Y 89-84

Manufacturer: Confidential.

Chemical. (G) Acrylated cellulose acetate butyrate.

Use/Production. (S) Binder in two-component automotive clear coating. Prod. range: Confidential.

Y 89-86

Manufacturer: Confidential.

Chemical. (G) Polyester.

Use/Production. (G) Adhesive. Prod. range: Confidential.

Y 89-87

Manufacturer: Confidential.

Chemical. (G) Oil modified polyester.

Use/Production. (G) Coating. Prod. range: Confidential.

Y 89-89

Importer: Metal Coatings International, Inc.

Chemical. (G) Polymers of: alkyl acrylates, lactone.

Use/Import. (G) Open, nondispersive use (liquid paint). Import range: Confidential.

Y 89-90

Importer: Metal Coatings International, Inc.

Chemical. (G) Polymers of: alkyl acrylates, lactone.

Use/Import. (G) Open, nondispersive use (liquid paint). Import range: Confidential.

Y 89-91

Importer: Metal Coatings International, Inc.

Chemical. (G) Polymers of: alkyl acrylates, lactone.

Use/Import. (G) Open, nondispersive use (liquid paint). Import range: Confidential.

Y 89-92

Importer: Metal Coatings International, Inc.

Chemical. (G) Polymers of: alkyl acrylates, lactone.

Use/Import. (G) Open, nondispersive use (liquid paint). Import range: Confidential.

Y 89-93

Importer: Metal Coatings International, Inc.

Chemical. (G) Polymers of: alkyl acrylates, lactone.

Use/Import. (G) Open, nondispersive use (liquid paint). Import range: Confidential.

Y 89-94

Importer: Metal Coatings International, Inc.

Chemical. (G) Polymers of: alkyl acrylates, lactone.

Use/Import. (G) Open, nondispersive use (liquid paint). Import range: Confidential.

Y 89-95

Importer. Metal Coatings International, Inc.

Chemical. (G) Polymers of: alkyl acrylates, lactone.

Use/Import. (G) Open, nondispersive use (liquid paint). Import range: Confidential.

Y 89-96

Importer. Metal Coatings International, Inc.

Chemical. (G) Polymers of: alkyl acrylates, lactone.

Use/Import. (G) Open, nondispersive use (liquid paint). Import range: Confidential.

Y 89-97

Importer. Metal Coatings International, Inc.

Chemical. (G) Polymers of: alkyl acrylates, lactone.

Use/Import. (G) Open, nondispersive use (liquid paint). Import range: Confidential.

Y 89-98

Importer. Metal Coatings International, Inc.

Chemical. (G) Polymers of: alkyl acrylates, lactone.

Use/Import. (G) Open, nondispersive use (liquid paint). Import range: Confidential.

Y 89-99

Importer. Metal Coatings International, Inc.

Chemical. (G) Polymers of: alkyl acrylates, vinyl benzene.

Use/Import. (G) Open, nondispersive use (liquid paint). Import range: Confidential.

Y 89-102

Manufacturer. Confidential.

Chemical. (G) Aliphatic polyester urethane.

Use/Production. (G) Used in coatings applied by manufacturer. Prod. range: Confidential.

Y 89-103

Manufacturer. Confidential.
Chemical. (G) Polyamic acid.
Use/Production. (G) Coating. Prod. range: Confidential.

Y 89-104

Manufacturer. Confidential.
Chemical. (G) Ethylene oxide polymer with propylene oxide, alkylphenol, formaldehyde and diepoxide.
Use/Production. (G) Surface active agent. Prod. range: Confidential.

Y 89-105

Manufacturer. Eastman Kodak Company.
Chemical. (G) Substituted aryl vinyl polymer.
Use/Production. (G) Contained use in an article. Prod. range: 25,000-33,000 kg/yr.
Toxicity Data. Skin irritation: negligible species (GUINEA PIG).

Y 89-106

Manufacturer. Eastman Chemical Division.
Chemical. (G) Polyethylene.
Use/Production. (G) Plastics additive and compounding. Prod. range: Confidential.

Y 89-107

Manufacturer. Eastman Chemical Division.
Chemical. (G) Oxidized polyethylene.
Use/Production. (G) Plastics additive and compounding. Prod. range: Confidential.

Y 89-108

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyester urethane.
Use/Production. (G) Used in coatings applied by industrial manufacturer. Prod. range: Confidential.

Y 89-109

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyester urethane.
Use/Production. (G) Used in coatings applied by industrial manufacturer. Prod. range: Confidential.

Y 89-112

Manufacturer. Confidential.
Chemical. (G) Oil free alkyd.
Use/Production. (S) Component of industrial coil coating resin. Prod. range: 76,000-96,000 kg/yr.

Y 89-114

Manufacturer. Confidential.
Chemical. (G) Polyester polyurethane acrylic graft copolymer.
Use/Production. (S) Overprint modifier for coatings, inks, and adhesives. Prod. range: Confidential.

Y 89-115

Manufacturer. Lanchem.
Chemical. (G) Acrylic resin solution.
Use/Production. (G) Resin for paint manufacture. Prod. range: Confidential.

Y 89-116

Manufacturer. Confidential.
Chemical. (G) Saturated, oil-free polyester resin.
Use/Production. (S) Polyester resin. Prod. range: Confidential.

Y 89-117

Manufacturer. Confidential.
Chemical. (G) Saturated, oil-free polyester resin.
Use/Production. (S) Polyester resin. Prod. range: Confidential.

Date: May 8, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-11695 Filed 5-15-89; 8:45 am]
BILLING CODE 6560-50-M

[FRL-3572-7]

Extension of the Period for Action on a Recommended Section 404(c) Determination to Prohibit the Specification or Use of an Area as a Disposal Site; Ware Creek

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of an extension to the period for action on a recommended section 404(c) determination.

SUMMARY: On March 15, 1989, EPA Headquarters received Regional documentation including an administrative record supporting a recommended determination to prohibit or restrict the use or specification of the area known as Ware Creek. The subject site is proposed as a disposal site for fill material necessary for the construction of a water supply impoundment to serve James City County, Virginia. In accordance with EPA's section 404(c) regulations, EPA Headquarters initiated final consultation with the Corps of Engineers, the owners of record and the section 404 permit applicant for the proposed project. The purpose of this consultation was to provide appropriate parties a final opportunity to demonstrate to the satisfaction of the Assistant Administrator for Water, that corrective action would be taken to prevent an unacceptable adverse effect(s) from the proposed discharge. In a subsequent meeting which took place on April 13, 1989, representatives of James City County raised two major issues which they felt necessitated consideration during EPA Headquarters' review of the Regional recommended determination. Specifically, counsel representing James City County asserted that the administrative record submitted to EPA Headquarters by EPA Region III did not include appropriate documents contained in the Corps of Engineers record for the Ware Creek project. Representatives of James City County also suggested that in reaching a final determination on the section 404(c) action, EPA must consider the effects of its action on the potential use of any water supply provided by the proposed Ware Creek impoundment for satisfying regional water supply needs.

EPA has determined that the issues presented by representatives of James City County during formal consultation warrant additional review of the Corps of Engineers administrative record for the section 404 permit decision on the Ware Creek proposal to ensure that all relevant facts are considered. Further, EPA believes it is necessary to ensure that actions taken by this Agency do not preclude or limit environmentally sound regional decision-making with regard to water supply alternatives. Thorough examination of these issues is important to EPA's section 404(c) determination and requires additional review prior to rendering a final decision with regard to the Ware Creek proposal. EPA therefore, has determined that good cause exists to extend the time limit for preparation of a final determination on the recommended determination to prohibit or restrict the use or specification of the area known as Ware Creek. EPA's deadline for a finding on the recommended determination is being extended until close of business, June 16, 1989. This time extension is made under the EPA authority found in 40 CFR 231.8.

DATES: This notice of extension of the period for preparation of a section 404(c) Final Determination is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Kirk Stark, Chief, Elevated Cases Team A-104-F, Office of Wetlands Protection—U.S. EPA, 401 M Street Washington, DC 20460, (202) 475-7799.

Dated: May 12, 1989.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 89-11883 Filed 5-15-89; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Requirements Submitted for Review Under the Paperwork Reduction Act of 1980

May 9, 1989.

On March 20, 1989, the Federal Communications Commission submitted to the Office of Management and Budget a request for review of a revised form FCC 301, Application for Construction Permit for Commercial Broadcast Station (OMB Control No. 3060–0027). The associated Report and Order, MM Docket No. 87–121, stated in the Ordering Clause that the effective date was April 14, 1989, or upon Office of Management and Budget approval of amendments to FCC Form 301 and FCC Form 340, whichever is later. However, the FCC 340 was not submitted at that time, which caused confusion regarding the status of the Form 301 and the requirements for applications filed on that form beginning on April 14.

Since that time, other rule changes have been adopted which will also affect the Form 301. Due to the necessity for further revisions, we have withdrawn the March 20 submission. The changes proposed in that request are included in a subsequent request which incorporates all revisions recently approved by the Commission. It has been submitted to OMB along with a request for review of the Form FCC 340 for simultaneous action.

The recent Commission actions affecting these forms have been published in the **Federal Register** as follows:

MM Docket No. 87–121, Released February 22, 1989 (Forms 301 and 340), Published at 54 FR 9800, March 8, 1989

MM Docket No. 88–375, Released April 17, 1989 (Forms 301 and 340), Published at 54 FR 16363, April 24, 1989

MM Docket No. 88–328, Released April 20, 1989 (Form 301) Published at 54 FR 19951, May 9, 1989

The Commission has requested 45-day expedited OMB review. This request is made in accordance with the requirements of 5 CFR 1320.18. Copies of these submissions (not including the dockets listed above) may be purchased from the Commission's copy contractor, International Transcription Service, 2100 M Street NW., Suite 140, Washngton, DC 20037, telephone (202) 857–3800. Persons wishing to comment on these information collections should contact Eyvette Flynn, Office of Management and Budget, Room 3235, NEOB, Washington, DC 20503, telephone (202) 395–3785. For further information contact Doris Benz, FCC, telephone (202) 632–7513.

OMB No.: 3060–0027
Title: Application for Construction Permit for Commercial Broadcast Station
Form No.: FCC 301
Action: Revision
Respondents: Business, including small business
Frequency of Response: On occasion
Estimated Annual Burden: 1,997 responses, 110 hours per response
Needs and Uses: Filing is required to apply for authority to construct a new commercial AM, FM or TV braodcast station, or to make changes in an existing facility. The data is used to determine whether the applicant meets basic statutory requirements to become a licensee.

OMB No.: 3060–0034
Title: Application for Construction Permit for Noncommercial Educational Broadcast Station
Form No.: FCC 340
Action: Revision
Respondents: Non-profit institutions
Frequency of Response: On occasion
Estimated Annual Burden: 175 responses, 78 hours per response
Needs and Uses: Filing is required to apply for authority to construct a new noncommercial educatioanl AM, FM or TV braodcast station, or to make changes in an existing facility. The data is used to determine whether the applicant meets basic statutory requirements to become a licensee.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–11628 Filed 5–15–89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–826–DR]

Alaska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alaska (FEMA–826–DR), dated May 10, 1989, and related determinations.

DATED: May 10, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia S. Bowman, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–2661.

Notice

Notice is hereby given that, in a letter dated May 10, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288, as amended by Pub. L. 100 707), as follows:

I have determined that the damage in certain areas of the State of Alaska, resulting from severe freezing conditions during the period January 15–February 15, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288, as amended by Public Law 100–707. I, therefore, declare that such a major disaster exists in the State of Alaska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93–288, as amended by PL 100–707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Joan F. Hodgins of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Alaska to have been affected adversely by this declared major disaster: The Northwest Arctic Borough and the Communities of Galena, Tanana, and Sandpoint for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Julius W. Becton, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 89–11680 Filed 5–15–89; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-824-DR]

Minnesota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Minnesota (FEMA-824-DR), dated May 8, 1989, and related determinations.

DATED: May 8, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice

Notice is hereby given that, in a letter dated May 8, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288, as amended by Pub. L. 100-707), as follows:

I have determined that the damage in certain areas of the State of Minnesota, resulting from flooding beginning on March 29, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288, as amended by Public Law 100-707. I, therefore, declare that such a major disaster exists in the State of Minnesota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93-288, as amended by PL 100-707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of Section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Ronald Buddecke of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Minnesota to have been affected adversely by this declared major disaster: The counties of Clay, Marshall, Norman, Pennington, Polk, Traverse, and Wilkin for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Julius W. Becton, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 89-11681 Filed 5-15-89; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-825-DR]

North Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Dakota (FEMA-825-DR), dated May 8, 1989, and related determinations.

DATED: May 8, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice

Notice is hereby given that, in a letter dated May 8, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288, as amended by Pub. L. 100-707), as follows:

I have determined that the damage in certain areas of the State of North Dakota, resulting from flooding beginning on March 29, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288, as amended by Public Law 100-707. I, therefore, declare that such a major disaster exists in the State of North Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93-288, as amended by PL 100-707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jose Bravo of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of North Dakota to have been affected adversely by this declared major disaster: The counties of Cass, Grand Forks, Richland, Traill, and Walsh for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Julius W. Becton, Jr.,

Director, Emergency Management Agency.

[FR Doc. 89-11682 Filed 5-15-89; 8:45 am]

BILLING CODE 6718-02-M

Board of Visitors for the Emergency Management Institute; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Board of Visitors (BOV) for the Emergency Management Institute (EMI).

Dates of Meeting: June 5-6, 1989.

Place:

Federal Emergency Management Agency,
National Emergency Training Center,
Emergency Management Institute,
Conference Room Building N,
Emmitsburg, Maryland 21727

Time: June 5—7:00 p.m. to 9:00 p.m; June 6—7:00 p.m. to 9:00 p.m.

Proposed Agenda: Participation in "Current Trends in Emergency Management for State Emergency Management Executives" being held at EMI June 5-8 which will provide the BOV with an opportunity to interact with, and obtain input from, State emergency management staff. BOV meeting sessions will be held in addition to their above stated participation which will include the initiation of interim reports for consolidation within their annual report, and working sessions on Core Curriculum and Evaluation Systems Procedures.

The meeting will be open to the public with approximately ten seats available on a first-come first serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, Emergency Management Institute Office of Training, 16825 South Seton Avenue Emmitsburg,

Maryland 21727 (telephone number 301 447-1251) on or before June 1, 1989.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Director's Office, Office of Training, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, Maryland 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: May 8, 1989

Dave McLoughlin,

Director, Office of Training.

[FR Doc. 89-11679 Filed 5-15-89; 8:45am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

[89-1427]

Correction of Dates of Appointment of Conservators

Date: May 9, 1989.

Notice is hereby given that the dates of appointment of conservators for the following institutions by the Federal Home Loan Bank Board, as published in the April 14, 1989 issue of the **Federal Register** (54 FR 15008-15013 (April 14, 1989)) were incorrectly given:

Baldwin County Federal Savings Bank, Robertsdale, AL, Durand Federal Savings and Loan Association, Durand, WI, Great Atlantic Savings Bank, Federal Savings Bank, Manteo, NC, Heritage Federal Savings and Loan Association, Monroe, NC, Midland-Buckeye Federal Savings and Loan Association, Alliance, OH.

The conservators for each of these institutions were appointed on March 29, 1989.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-11662 Filed 5-15-89; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Vital and Health Statistics National Committee; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the National Committee on Vital and Health Statistics established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, announces the following meeting.

Name: National Committee on Vital and Health Statistics.

Time and date: 10:00 am-5:00 pm—June 7, 1989; 8:30 am-4:30 pm—June 8, 1989; 9:00 am-1:30 pm—June 9, 1989.

Place: Hubert H. Humphrey Building, Room 703A, 200 Independence Avenue SW., Washington, DC 20201.

Status: Open

Purpose: The purpose of this meeting is for the Committee to receive and consider reports from each of its subcommittees and to address new business as appropriate.

Contact Person For More Information: Substantive program information as well as summaries of the meeting and roster of Committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2-12, Center Building, 3700 East West Highway, Hyattsville, Maryland 20782, telephone (301) 436-7050.

Dated: May 10, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89-11648 Filed 5-15-89; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 89E-0131]

Determination of Regulatory Review Period for Purposes of Patent Extension; Cygro®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for CYGRO® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that animal drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: I. David Wolfson, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For animal drug products, the testing phase begins on the earlier date when either a major environmental effects test was initiated for the drug or when an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act became effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the animal drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for an animal drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(4)(B).

FDA recently approved for marketing the animal drug product CYGRO® (maduramicin ammonium) which is indicated for the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.* Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for CYGRO® (U.S. Patent No. 4,278,663) from Hoffmann-La Roche, Inc., and requested FDA's assistance in determining the patent's eligibility for patent term restoration. FDA, in a letter dated April 25, 1989, advised the Patent and Trademark Office that the animal drug product had undergone a regulatory review period and that the active ingredient, maduramicin ammonium, represented the first commercial marketing or use of that active ingredient. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for CYGRO® is 2,258 days. Of this time, 899 days occurred during the testing phase

of the regulatory review period, while 1,359 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act became effective:* November 30, 1982. The applicant claims November 26, 1982, as the date the investigational new animal drug application (INAD) became effective. However, FDA records indicate that the INAD became effective on November 30, 1982.

2. *The date the application was initially submitted with respect to the animal drug product under section 512(b) of the Federal Food, Drug, and Cosmetic Act:* May 16, 1985. The applicant claims May 14, 1985, as the date that the new animal drug application (NADA) was initially submitted. However, FDA records indicate that NADA 139-075 was initially submitted to FDA on May 16, 1985.

3. *The date the application was approved:* February 2, 1989. FDA has verified the applicant's claim that NADA 139-075 was approved on February 2, 1989.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,095 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 17, 1989, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 13, 1989, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen In the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 9, 1989.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 89-11652 Filed 5-15-89; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part at 53 FR 8978 on March 18, 1988) is amended to reflect the transfer of some functions in the Food and Drug Administration (FDA).

FDA proposes to transfer the biopharmaceutics functions from the Office of Drug Standards to the Office of Research Resources in the Center for Drug Evaluation and Research. FDA believes the biopharmaceutics activities will be more appropriately placed with other drug analysis activities in the Office of Research Resources.

Section HF-B Organization and Functions is amended as follows:

1. Delete subparagraph (n-3) Office of Drug Standards (HFNE) in its entirety and insert a new subparagraph (n-3) Office of Drug Standards (HFNE) reading as follows:

(n-3) *Office of Drug Standards* (HFNE). Oversees the development and implementation of standards for the safety and effectiveness of prescription, over-the-counter (OTC), and generic drugs and drug advertising and labeling.

Reviews and evaluates abbreviated new drug applications (ANDAs), Antibiotic Forms 6, and their amendments or supplements and determines approvability based on medical and scientific data findings.

Coordinates the formulation and implementation of OTC drug monographs with other Agency components and assists in final monograph publication.

Establishes bioequivalency specifications for drug products, develops guidelines for bioavailability and equivalency reviews, and develops guidelines for industry protocols and studies.

Monitors, evaluates, and develops policy for prescription drug promotion and labeling.

Initiates necessary actions to maintain industry compliance with prescription drug advertising and labeling regulations.

Participates in Agency sponsored consumer and professional educational programs on drug standards.

2. Delete subparagraph (n-7) Office of Research Resources (HFNL) in its entirety and insert a new subparagraph (n-7) Office of Research Resources (HFNL) reading as follows:

(n-7) *Office of Research Resources* (HFNL). Conducts research and develops scientific standards on the composition, quality, safety, and effectiveness of human drug products.

Directs the FDA insulin certification program.

Directs large scale drug quality surveillance activities for the Center as required by regulations.

Coordinates Centerwide research activities in biomathematical/statistical, pharmaco-epidemiological, econometric, and regulatory process or administration oriented subject areas.

Coordinates basic and applied pharmaceutical research including in vitro physiochemical or analytical biochemistry studies and in vitro rodent, non-human primate, and human clinical research.

Evaluates pharmacokinetic bioavailability and bioequivalence data and protocols on investigational, new, and marketed drugs. Develops, monitors, and coordinates biopharmaceutic research. Coordinates all biopharmaceutic activities.

Develops and coordinates Center extramural research policy and monitors research projects.

Provides scientific training for new employees through the development and coordination of Staff College programs.

Sponsors cooperative University-based and industry-linked education programs for postdoctoral traineeships and sabbatical programs. Initiates and coordinates the holding of scientific workships.

In coordination with the Office of the Commissioner educates the public on Center and Agency policy and activities.

Date: May 9, 1989.

Wilford J. Forbush,

Director, Office of Management, PHS.

[FR Doc. 89-11676 Filed 5-15-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-230-09-6310-12]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance office at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau clearance office and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, Telephone, (202) 395-7340.

Title: Timber Export Determination and Substitution Reporting.

OMB Approval Number: 1004-0058.

Abstract: Respondents supply identifying information and data on Federal timber purchased and private timber exported to determine compliance with export restrictions.

Bureau Form Number: 5400-17.

Frequency: On Occasion.

Description of Respondents: Purchasers of Bureau of Land Management Timber sales who have exported private timber within the past 12 months.

Estimated Completion Time: 1 hour.

Annual Responses: 100.

Annual Burden Hours: 190.

Bureau Clearance Officer: (Alternate) Rick Iovaine (202) 653-8853.

Date: February 24, 1989.

Dean E. Stepanek,

Assistant Director, Lands and Renewable Resources.

[FR Doc. 89-11645 Filed 5-15-89; 8:45 am]

BILLING CODE 4310-84-M

[AK-967-4230-15; AA-6703-A2]

Alaska Native Claims Selection; the Tatitlek Corp.

In accordance with Departmental regulation 43 CFR 2850.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to The Tatitlek Corporation. The lands involved are near Tatitlek, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Cordova Times.* Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until June 15, 1989 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of KCS Adjudication.

[FR Doc. 89-11643 Filed 5-15-89; 8:45 am]

BILLING CODE 4310-JA-M

[MT-060-09-4212-13; MTM-76695]

Realty Action—Exchange; Montana

AGENCY: Bureau of Land Management, Interior.

Corrections

In the Notice of Realty Action, MTM-76695 beginning on page 19466 in the issue of Friday, May 5, 1989, make the following corrections:

On page 19466, in the first column, under **ACTION** add the following sentence to the beginning of the paragraph "The Bureau of Land Management proposes to exchange public land for private land with Mr. Ralph Gourley. Mr. Courley is acting as an exchange facilitator on behalf of Mr. George Hodgekiss and the Bureau of Land Management."

On page 19467, in the first column, under **SUPPLEMENTARY INFORMATION** replace item 4 with the following sentence "Value equalization by cash payment of $43.00 will be paid to the United States of America by Mr. Ralph Gourley." Also add item 6 "The exchange will be completed in July, 1989."

Wayne Zinne,

District Manager,

Date: May 5, 1989.

[FR Doc. 89-11671 Filed 5-15-89; 8:45 am]

BILLING CODE 4310-DN-M

National Park Service

Gettysburg Tours, Inc.; Concession Contract Negotiations

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession contract with Gettysburg Tours, Incorporated, authorizing it to continue to provide shuttle bus facilities and services for the public at Gettysburg National Military Park, Pennsylvania, for a period of five (5) years from May 15, 1989, through May 14, 1994.

EFFECTIVE DATE: July 17, 1989.

ADDRESS: Interested parties should contact the Regional Director, Mid-Atlantic Region, 143 South Third Street, Philadelphia, Pennsylvania, 19106, for information as to the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on May 14, 1989, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Alec Gould,

Acting Regional Director, Mid-Atlantic Region.

Date: April 7, 1989.

[FR Doc. 89-11658 Filed 5-15-89; 8:45 am]

BILLING CODE 4310-70-M

Ye Olde Sun Snack, Inc.; Concession Contract Negotiations

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to extend a concession permit with Ye Olde Sun Snack, Inc., authorizing it to continue to provide beach umbrella and chair rentals and sundry sales at Jacob Riis Park in the Jamaica Bay/Breezy Point District of Gateway National Recreation Area, for a period of one (1) year from January 1, 1989, through December 31, 1989.

EFFECTIVE DATE: June 15, 1989.

ADDRESS: Interested parties should contact the Acting Regional Director, North Atlantic Region, 15 State Street, Boston, Massachusetts 02109 (telephone: 617–565–8864), for information as to the requirements of the proposed permit.

SUPPLEMENTARY INFORMATION: This permit extension has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act, and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1988, and therefore, pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 USC 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following the release date of this Public Notice to be considered and evaluated.

Steven H. Lewis,

Acting Regional Director, North Atlantic Region.

Date: April 21, 1989.

[FR Doc. 89–11659 Filed 5–15–89; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places;

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 6, 1989. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by May 31, 1989.

Carol D. Shull,

Chief of Registration, National Register.

LOUISIANA

Richland Parish

Poplar Chapel AME Church, LA 135, Rayville, 89000475

St. Landry Parish

Opelousas Historic District, Roughly bounded by Bellevue, Court St., Landry St., and Market St., Opelousas, 89000477

NEW MEXICO

Otero County

Mayhill Administrative Site, US 82, 1.5 mi. N of Mayhill, Mayhill vicinity, 89000476

NEW YORK

Essex County

Amherst Avenue Historic District (Ticonderoga MRA), 322—340 Amherst Ave., Ticonderoga, 89000473

Lake George Avenue Historic District (Ticonderoga MRA), 301—331 Lake George Ave., Ticonderoga, 89000472

New York County

Congregation B'nai Jeshurun Synagogue and Community House, 257 W. 88th St. and 270 W. 89th St., New York, 89000474

SOUTH CAROLINA

Pickens County

Civilian Conservation Corps Quarry No. 1 and Truck Trail (South Carolina State Parks MPS), Off Section Rd. 25/Hickory Hollow Rd., .7 mi. S of SC 11, Pickens vicinity, 89000479

Civilian Conservation Corps Quarry No. 2 (South Carolina State Parks MPS), 2 mi. N of Section Rd. 69/Sliding Rock Rd. near Oolenoy River, Pickens vicinity, 89000480

Roper House Complex (South Carolina State Parks MPS), SC Section Rd. 25, .1 mi. SE of SC 11, Pickens vicinity, 89000482

Table Rock Civilian Conservation Corps Camp Site (South Carolina State Parks MPS), Table Rock State Park Rd. Ext. at SC 11, Pickens vicinity, 89000481

Table Rock State Park Historic District (South Carolina State Parks MPS), SC 11, 4.5 mi. E of SC Primary Rd. 45, Pickens vicnity, 89000478

WISCONSIN

Jefferson County

Main Street Commercial Historic District, Roughly Main St. from N. Washington St. to S. Seventh St., Watertown, 89000483.

[FR Doc. 89–11660 Filed 5–15–89; 8:45 am]

BILLING CODE 4310–70–M

Trail Markers; Missouri, et al.

AGENCY: National Park Service, Interior.

ACTION: Marking of designated national historic trail route and notice of intent to secure trademark registration of the trail marker symbol. In the matter of, Missouri et al., intent to utilize trail markers bearing a distinctive symbol to mark segments of the Santa Fe National Historic Trail and to mark officially approved trail programs, activities, events, or materials, and intent thereby to establish use of the marker logo for purposes of securing trademark registration.

SUMMARY: This notice is to advise that the National Park Service will proceed to implement plans for the marking of the Santa Fe National Historic Trail route, through the States of Missouri, Kansas, Oklahoma, Colorado, and New Mexico, established as a component of the National Trails System by Pub. L. 100–35, May 8, 1987. First use will occur in the Draft Comprehensive Management and Use Plan for the Sante Fe National Historic Trail to be released for public review in May 1989. Implementation will establish official use of the specific trail marker symbol design (figure 1) for purposes of securing trademark registration of the design.

DATE: Action described will commence upon publication of this notice.

ADDRESS: Written comments should be sent to: Director, National Park Service, Attention: Chief, Park Planning and Special Studies Division, Washington, DC 20240, on or before June 15, 1989.

FOR FURTHER INFORMATION CONTACT: Jeff Chidlaw, Planner, Park Planning and Special Studies Division, 202–272–3566.

SUPPLEMENTARY INFORMATION: Uniform marking of each national historic trail with an appropriate and distinctive symbol is required under provisions of section 7(c) of the National Trails System Act, Pub. L. 90–543 as amended (82 Stat. 919; 16 U.S.C. 1241 et seq.). In order to prevent proliferation of the distinctive symbol (figure 1) and to assure against its used for other than the purposes of the Santa Fe National Historic Trail including commemorative, educational, public informational, and fundraising purposes, the National Park Service will proceed to secure trademark registration under 15 U.S.C. through specific use identifying to the public the designated trail route and the services, activities, and programs provided or approved by the National Park Service in establishing and

maintaining such routes for outdoor recreation and conservation purposes.

Figure 1

Trail markers bearing the symbol will be erected at appropriate points where the Santa Fe National Historic Trail route crosses lands administered by Federal agencies and will be maintained by each Federal agency in accordance with standards established by the Secretary of the Interior. Where the Santa Fe National Historic Trail route crosses non-Federal Lands, written agreements will be entered into with State and local government agencies for lands under their administration and with private landowners for the erection and maintenance of trail markers to be provided by the Secretary.

Date: May 9, 1988.

Herbert S. Cables,

Acting Director, National Park Service.

[FR Doc. 89-11661 Filed 5-15-89; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

American River Service Area Water Contracting Program, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Extension of Comment Period on Draft Environmental Impact Statement (INT DES-88-60).

DATES: *Notice:* The comment period for the American River Service Area Draft Environmental Impact Statement (DEIS) has been extended to May 26, 1989. Comments on the DEIS may be submitted in writing to the Regional Director, Bureau of Reclamation, Mid-Pacific Region, Attention: MP-750, 2800 Cottage Way, Sacramento, CA 95825-1898.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Payne or Mr. William Tully, Bureau of Reclamation, Mid-Pacific Region, Sacramento, CA (916) 978-5130; or Dr. Wayne Deason, Manager, Environmental Services, Denver, CO (303) 236-9336.

Date: May 10, 1988.

Terry P. Lynott,

Acting Deputy Commissioner.

[FR Doc. 89-11650 Filed 5-15-89; 8:45 am]

BILLING CODE 4310-09-M

Delta Export River Service Area Water Contracting Program, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Extension of comment period on draft environmental impact statement (INT DES-88-61).

DATES: *Notice:* The comment period for the American River Service Area Draft Environmental Impact Statement (DEIS) has been extended to May 26, 1989. Comments on the DEIS may be submitted in writing to the Regional Director, Bureau of Reclamation, Mid-Pacific Region, Attention: MP-750, 2800 Cottage Way, Sacramento, CA 95825-1898.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Payne or Mr. William Tully, Bureau of Reclamation, Mid-pacific Region, Sacramento, CA (916) 978-5130; or Dr. Wayne Deason, Manager, Environmental Services, Denver, CO (303) 236-9336.

Date: May 10, 1988.

Terry P. Lynott,

Acting Deputy Commissioner.

[FR Doc. 89-11651 Filed 5-15-89; 8:45 am]

BILLING CODE 4310-09-M

Sacramento River Service Area Water Contracting Program, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Extension of Comment Period on Draft Environmental Impact Statement (INT DES-88-59).

DATES: *Notice:* The comment period for the American River Service Area Draft Environmental Impact Statement (DEIS) has been extended to May 26, 1989. Comments on the DEIS may be submitted in writing to the Regional Director, Bureau of Reclamation, Mid-Pacific Region, Attention: MP-750, 2800 Cottage Way, Sacramento, CA 95825-1898.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Payne or Mr. William Tully, Bureau of Reclamation, Mid-Pacific Region, Sacramento, CA (916) 978-5130; or Dr. Wayne Deason, Manager, Environmental Services, Denver, CO (303) 236-9336.

Date: May 10, 1989.

Terry P. Lynott,

Acting Deputy Commissioner.

[FR Doc. 89-11649 Filed 5-15-89; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-312X]

South Carolina Central Railroad Co., Inc.; Abandonment Exemption in Cheraw, SC

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by South Carolina Central Railroad Company, Inc. of approximately 2,115 feet of rail line in Cheraw, SC, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on June 19, 1989. Formal expressions of intent to file

an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by May 26, 1989; petitions to stay must be filed by May 31, 1989; and petitions for reconsideration must be filed by June 12, 1989. Requests for a public use condition must be filed by May 26, 1989.

ADDRESSES: Send pleadings, referring to Docket No. AB-312X, to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and,

(2) Petitioner's representative: Kevin M. Sheys, Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 800, 1350 New York Avenue, NW., Washington, DC 20005-4797.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245, (TDD for hearing impaired: (202) 275-1721.)

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275-1721.)

Decided: May 9, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips. Commissioner Lamboley concurred in the result.

Noreta R. McGee,

Secretary.

[FR Doc. 89-11721 Filed 5-15-89; 8:45 am]

BILLING CODE 7035-01-M

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

DEPARTMENT OF JUSTICE

Lodging of Consent Order Pursuant to the Clean Air Act; Jeep Eagle Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Jeep Eagle Corporation* has been lodged with the United States District Court for the Eastern District of Wisconsin. The Consent Decree addresses alleged violations by Jeep Eagle Corporation ("Jeep Eagle") of the Wisconsin State Implementation Plan ("SIP") and the Clean Air Act relating to emissions of volatile organic compounds ("VOC") from a "stoneguard" coating line at Defendant's Kenosha, Wisconsin automobile assembly plant.

The proposed Consent Decree provides that Jeep Eagle shall achieve and maintain compliance with the standards governing VOC emissions from new sources contained in the Wisconsin SIP, and shall pay a civil penalty of $30,000. In order to achieve the standard, the Consent Decree specifically requires Jeep Eagle to dismantle its new stoneguard coating line. Additionally, the Consent Decree prohibits Jeep Eagle from rebuilding or resuming operation of its stoneguard coating line without prior notice to, and the approval of, U.S. EPA.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Jeep Eagle Corporation* D.J. Ref. #90-5-2-1-1285.

The proposed Consent Decree may be examined at the office of the United States Attorney, Eastern District of Wisconsin, 330 Federal Building, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202 and at the Office of Regional Counsel, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1748, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please refer to the referenced case name and D.J. Ref. number and enclose a check in the amount of $3.00 (ten cents per page reproduction cost) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-11644 Filed 5-15-89; 8:45 am]

BILLING CODE 4410-01-M

National Institute of Corrections

[Solicitation No. 89J01]

Small Jail Resource Catalog; Request for Applications

The National Institute of Corrections is seeking applications to develop an information and resource catalog for small jails throughout the United States.

Background

According to the Bureau of Justice Statistics' 1983 jail census, approximately 2,100 of the nation's 3,338 local jails are considered small jails. Defined as having a capacity of 50 or fewer beds, small jails represent 63 percent of the nation's jails and hold only slightly more than 11 percent of the nation's jail inmate population. While larger jails have higher average daily inmate populations, small jails are faced with the same operational, administrative, constitutional, and financial issues that larger facilities must address. Some of these common issues are inadequate staffing, lack of training resources, antiquated or inadequate physical plants, liability, compliance with standards, budgetary constraints, increasing demand for inmate services and programs, policies and procedures, crowding, and lack of incarceration alternatives and community resources.

A key difference between small and large jails is not that small jail issues are of less importance or scope, but that these issues must be dealt with effectively on a smaller scale. That administrators of small jails must address the same complex issues to operate a small jail legally and efficiently creates unique management problems in light of their more limited physical plant, budgetary, personnel, and support resources.

The National Institute of Corrections Jails Division has been providing information and assistance to the nation's small jails since 1978. The Small Jail Initiative places a special emphasis on addressing the needs and problems of small jails through existing NIC services—training, technical assistance, and information services.

During fiscal year 1989, the development of the Small Jail Information and Resource Catalog is one of the activities included in the Small Jail Initiative. The purpose of the catalog is to assist small jail administrators in quickly and easily identifying and locating appropriate resources and information to address issues and problems.

Catalog Description

The National Institute of Corrections is seeking applications for a one year cooperative agreement, where the grantee will develop an information and resource catalog for small jails. The catalog will be designed to:

• Enable small jail administrators to identify and locate appropriate information and resources that will assist in addressing problems and issues.

• Provide information on the organization and agencies that can provide assistance; include a description of the resource or service provided, the mailing address, telephone number, and contact person.

• Promote small jail adminstrators' awareness and utilization of existing small jail information and resources.

Scope of Activities

Under the provisions of the cooperative agreement and based on policy direction from the Institute, the grantee will perform the full range of research, reporting, and product development and delivery as outlined below.

Phase One

Duration: Six (6) months.

The purpose of Phase One is to identify the resources appropriate and available for small jails. The final product for this phase will include a listing and detailed summaries of the identified information and resources. The final product will be submitted to NIC for review at the end of Phase One.

During the first phase, the following activities should occur:

1. Conduct a comprehensive survey of existing resources that are appropriate and available to small jails nationally.

2. Research and compile information on these resources (includes description of services provided, contact information, etc.).

3. Develop a detailed listing and summaries of identified information and resources.

Phase Two

Duration: Six (6) months.

During Phase Two the format of the catalog will be designed, a draft of the catalog developed, and the draft catalog revised into the final product.

The final product delivered to NIC at the end of Phase Two shall include: one (1) camera ready copy of the publication-ready Small Jail Information and Resource Catalog, four (4) copies of the final catalog product, and 5 ¼ inch floppy disk, MS–DOS formatted, done with WordPerfect program which contains the entire text of the catalog.

During the second phase, the following activities should occur:

1. Develop the format of the catalog. The format design should promote ready access by the user to content information.

2. Develop a draft of the catalog for review.

3. Distribute the draft catalog to NIC and appropriate reviewers.

4. Incorporate reviewer comments and revise the draft catalog into the final publication-ready product.

Application Procedures

One cooperative agreement with funding up to $20,000 will be awarded for the development of the Small Jail Resource Catalog. Project activity must be completed within one year with the specific activities outlined above occurring in the appropriate phases. Applications are solicited from state agencies, general units of local government, educational institutions, public and private agencies, federal agencies, organizations, and individuals with demonstrated expertise in small jail resources.

Applications must be prepared in accordance with procedures included in the "NIC Guidelines Manual: Instructions for Applying for Federal Assistance", which can be obtained by contacting the Institute. Applicants must complete OMB Standard Form 424, Federal Assistance. The applications should be concisely written, typed, double spaced, referenced by the project number and title given in this request for applications, and received at the Institute no later than 5:00 p.m., June 1, 1989.

Applications should be submitted in six (6) copies to the National Institute of Corrections, 320 First Street NW., Washington, DC 20534. At least one (1) copy of the application must bear the original signature of the administrator or chief executive officer of the applicant organization. A cover letter must identify the responsible audit agency for the applicant's financial accounts.

Applications will be objectively reviewed by a team of Institute staff members. Among the criteria used to evaluate the applications are:

I. Programmatic

• Responsiveness to this specific request for applications.

• Demonstration of clear understanding of key issues involved and relevance of proposed project.

• Clearly defined and measurable goals, objectives, activities and related resources.

II. Project Management

• Appropriateness of proposed activities to address all aspects of the project in a time frame and manner that is realistic and productive.

• Clear, complete and precise description of the design and methodology for the proposed project.

• Identification of tasks, milestones and corresponding time lines for achievement of goals and objectives.

III. Organization

• Applicant's familiarity with the subject and capability to conduct the project successfully.

• Description of applicant's background, expertise, reputation and qualifications relevant to this specific project.

• Realistic and sufficient allocation of resource and time commitments for project personnel.

IV. Financial/Administrative

• Inclusion of adequate project cost detail/narrative to support the proposed budget.

• Estimated total costs and levels of effort.

To obtain more information prior to preparing an application, contact Michele Borg at the Institute's Jails Division, 1790 30th Street, Suite 440, Boulder, Colorado, 80301, (303) 939–8866.

Issue Date: April 15, 1989.

Larry Solomon,

Acting Director, National Institute of Corrections.

[FR Doc. 89–11700 Filed 5–15–89; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission

they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson. Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration

Washington State Reemployment Bonus Demonstration Project

One-time
Individuals or households
3,000 respondents; 1,260 total hours; 25 minutes per response; no forms

The Washington Reemployment Bonus Experiment will assess if bonuses offered to Unemployment Insurance claimants reduce unemployment and program costs. The proposed survey will provide data essential to validate experimental results, and address issues, such as effects on displaced workers critical, that are to determine if the bonus program is appropriate public policy.

UI Exhaustee Study

One-time study
Individuals or households
3,000 repondents; 1,000 total hours; 20 minutes per response; no forms

The results of this study of exhaustees of unemployment insurance benefits will provide vital policy relevant information required by the Administration in determining whether current programs are adequate. Results will be used in evaluating proposed changes to the extended benefits program.

Revision

Employment Standards Administration

Application for Authority for an Institution of Higher Education to Employ its Full-Time Students at Subminimum Wages Under Regulations Part 519

1215-0080; WH-201-MIS
Annually
States or local Governments; Businesses or other for profit; Nonprofit institutions; Small businesses or organizations

Section 14(b) of the Fair Labor Standards Act, in part, authorizes the employment of full-time students in higher education at subminimum wages under certain conditions. The WH-201-MIS application form provides the information necessary to ascertain whether the requirements of section 14(b) have been met.

Extension

Employment Standards Administration

Notice of Law Enforcement Officer's Injury or Occupational Disease; Notice of Law Enforcement Officer's Death

1215-0116
On occasion
Individuals or households; State or local governments; Small businesses or organizations
75 respondents; 103 total hours; 1 to 1½ hours per response; 2 forms

These forms are used for filing claims for compensation for injury and death to non-Federal law enforcement officers under the provisions of USC 8191 et seq. The forms provide the basic information needed to process the claims made for injury or death.

Signed at Washington, DC, this 10th day of May, 1989.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 89-11706 Filed 5-15-89; 8:45 am]

BILLING CODE 4510-27-M; 4510-30-M

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub.L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee for the Labor Advisory Committee for Trade Negotiations and Trade Policy.

DATE, TIME AND PLACE: June 13, 1989, 9:30 a.m., Rm. S4215 A&B Frances Perkins, Department of Labor Building, 200 Constitution Avenue NW., Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. section 552b(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT: Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Signed at Washington, DC this 8th day of May 1989.

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 89-11705 Filed 5-15-89; 8:45 am]

BILLING CODE 4510-28-M

Employment and Training Administration

[TA-W-22,355 et al.]

Dresser Industries, Inc., Guiberson Division; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In the matter of: TA-W-22,355, Houston, Texas; TA-W-22,394, Dallas, Texas; TA-W-22,394A, All other locations in Texas; TA-W-22,394B, All locations in Wyoming; TA-W-22,394C, All locations in Illinois; TA-W-22,394D, All locations in Kansas; TA-W-22,294E, All locations in Louisiana; TA-W-22,394F, All locations in Oklahoma.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 10, 1989 applicable to all workers of the Guiberson Division of Dresser Industries, Inc.

Based on new information from the company, additional workers were separated from the Guiberson Division of Dresser Industries in other locations in Texas, and in the States of Wyoming,

Illinois, Kansas, Louisiana and Oklahoma during the period applicable to the petition.

The notice, therefore is amended by including the States of Wyoming, Illinois, Kansas, Louisiana and Oklahoma and all other locations in Texas of the Guiberson Division of Dresser Industries, Inc.

The amended notice applicable to TA-W-22,355 and TA-W-22,394 is hereby issued as follows:

All workers of the Guiberson Division of Dresser Industries Inc., in Houston and Dallas, Texas and in all other locations of Texas and in all locations in the States of Wyoming, Illinois, Kansas, Louisiana and Oklahoma who became totally or partially separated from employment on or after August 1, 1988 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 5th day of May 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-11707 Filed 5-15-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,291 et al.]

The Lee Apparel Co., Inc.; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In the matter of: TA-W-22,291, Broadway, Virginia; TA-W-22,324, Lenexa, Kansas; TA-W-22,324A, Hermitage, Tennessee.

In accordance with section 223 of the Trade act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice Certification of Eligibility to Apply for Worker Adjustment Assistance on February 13, 1989 applicable to all workers of The Lee Apparel Company, Inc., Boradway, Virginia and Lenexa, Kansas.

Based on new information from the company, additional workers were separated from the Hermitage, Tennessee facility of The Lee Apparel Company, Inc. in 1988 and 1989.

The notice, therefore is amended by including the new location of Hermitage, Tennessee.

The amended notice applicable to TA-W-22,291 and TA-W-22,324 is hereby issued as follows:

All workers of the The Lee Apparel Company, Inc., Broadway, Virginia who became totally or partially separated from employment on or after December 12, 1987 and before November 30, 1988 and all workers of The Lee Apparel Company, Inc., Lenexa, Kansas and Hermitage, Tennessee who became totally or partially separated from employment on or after December 1, 1987 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 5th day of May 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-11708 Filed 5-15-89; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-89-60-C]

Golden Oak Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Golden Oak Mining Company, HC 85, Box 177, Whitesburg, Kentucky 41858 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Black Oak No. 7 Mine (I.D. No. 15-16287) located in Knott County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The use of cabs or canopies would result in a diminution of safety because the cabs or canopies would limit the equipment operator's visibility, causing the operator to lean out while in motion, exposing the operator and others to danger. The cabs or canopies would also create cramped conditions causing unnecessary fatigue resulting in reduced alertness and safety. Limited operating space would hinder the operators escape from the equipment in case of an emergency and the cabs or canopies would hit and weaken the roof bolts.

3. For these reasons, petitioner requests a modification of the standard in mining heights of 50 inches or less.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 15, 1989. Copies of the petition are available for inspection at that address.

Date: May 8, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-11704 Filed 5-15-89; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

[Docket No. NRTL-1-88]

MET Electrical Testing Co., Inc.; Recognition as a Nationally Recognized Testing Laboratory

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of recognition as a nationally recognized testing laboratory.

SUMMARY: This notice announces the Agency's final decision on the MET Electrical Testing Company, Inc., application for recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Room N3653, Washington, DC 20210.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

Notice is hereby given that the MET Electrical Testing Company, Inc., which made application for recognition pursuant to 29 CFR 1910.7, has been recognized as a Nationally Recognized Testing Laboratory for the equipment or materials listed below.

The address of the laboratory covered by this recognition is: MET Electrical Testing Company, Inc., Laboratory Division, 916 West Patapsco Avenue, Baltimore, Maryland 21230.

Background

MET Electrical Testing Company, Inc., was incorporated in Baltimore, Maryland in October, 1959, as Eastern Electrical Testing Laboratories, according to the applicant. The name was changed one year later to Maryland Electrical Testing Company to eliminate confusion between the acronym "EETL" and similar acronyms of other laboratories. In 1973, the Company's expansion into Pittsburgh, Pennsylvania necessitated an additional name change to the present one of MET Electrical Testing Company, which removed the restrictive "Maryland" from the

Company's name. However, according to the applicant, MET has been corporately the same organization since its inception in 1959. Since that time, MET has expanded further by purchasing the Burlington Testing Company of Burlington, New Jersey.

MET also has sought and gained recognition in many areas of service where recognition and accreditation of independent laboratories was available, including the National Voluntary Laboratory Accreditation Program (NVLAP) for telecommunications and computing equipment, and the American Association of Laboratory Accreditation (A2LA). It has also received additional accreditations from numerous jurisdictions including states, cities, municipalities, and federal government agencies including the U.S. Coast Guard, the U.S. Navy, the U.S. Army and the Nuclear Regulatory Commission.

MET Electrical Testing Company, Inc., (MET) applied to OSHA for recognition as a Nationally Recognized Testing Laboratory in April 1988. The application was subsequently revised and additional data provided as requested. An on-site evaluation was conducted and the results were discussed with the applicant who responded with appropriate corrective actions and clarifications to recommendations made as a result of the survey (See Ex. 2B). A final on-site review report, consisting of the on-site evaluation of MET's testing facility and administrative and technical practices and the corrective actions taken by MET in response to this evaluation, and the OSHA staff recommendation, was subsequently forwarded to the Assistant Secretary for a preliminary finding on the application. A notice of MET's application together with a positive preliminary finding was published in the **Federal Register** on December 6, 1988 (53 FR 49258–49259). Interested parties were invited to submit comments.

There were five responses to the **Federal Register** notice of the MET application and preliminary finding (Docket No. NRTL–1–88). Exhibit 3–5 contained no substantive matter. Exhibits 3–1, 3–2, and 3–3 attested to the credibility of the applicant, agreed with the positive preliminary finding, and recommended recognition as a nationally recognized testing laboratory. The other comment will be discussed more fully below.

The Occupational Safety and Health Administration has evaluated the record in relation to the regulations set out in 29 CFR 1910.7 and makes the following findings:

Capability

Section 1910.7 (b)(1) states that for each specified item of equipment or material to be listed, labeled or accepted, the testing laboratory must have the capability (including proper testing equipment and facilities, trained staff, written testing procedures, and calibration and quality control programs) to perform appropriate testing.

The on-site review report indicates that MET does have testing equipment and facilities appropriate for the areas of recognition it seeks. The laboratory has more than 1800 pieces of test equipment it uses to perform the testing required by the standards. The test standards used identify the necessary parameters required to be measured to provide assurance of product conformance to a standard; MET's equipment can measure these parameters specified in the standard. It maintains an inventory list which includes a description of the test equipment, manufacturer and model; the laboratory's identification number; and the calibration status and location of the test equipment.

One respondent expressed concern that certain necessary equipment may not be owned and available at the site (Ex. 3–4, pp. 3–4). MET has stated that it owns the equipment necessary to perform the tests contemplated in the test standards for which it seeks recognition except for situations where the equipment or materials to be tested, such as large medical X-ray units, require a unique facility or special equipment. OSHA finds this practice to be acceptable.

The Laboratory Division, which is located at the Baltimore, Maryland address of the applicant, consists of 21 employees, as follows:

1—Laboratory Director
3—Project Engineers
2—Engineers
2—Junior Engineers
4—Senior Technicians
4—Test Technicians
2—Group Administrators
1—Sales Engineer
1—Clerical
1—Machinist

MET has submitted copies of the job responsibilities and qualifications for each of the technical positions listed above and the employees, in OSHA's opinion, appear to be qualified by training or experience for performing testing in the areas for which MET seeks recognition.

MET owns a 22,000 square foot commercial building, 14,000 square feet of which is allocated to product testing and evaluation. Temperature and humidity are closely controlled in rooms used for calibrating test instruments and where required by the applicable test standards. Visitor entrance to the facility is carefully controlled. The facility also has a security alarm system and a fire sprinkler system. The physical facilities appear to be more than adequate for the volume and type of testing for which MET has requested recognition.

One commentator (Ex. 3–4, p. 3) believed that MET has attempted to cover too many product categories for the facility, test equipment, and staff resources, and questions the controls that will be implemented to assure that the other MET facilities (which were not the subject of the MET application) would not be brought into service. The on-site review indicated that the company's facilities and personnel can accomplish the services required for their present workload in the product categories for which MET seeks recognition. In the event that the workload increased, additional resources would be needed for staff and program expansion. MET states that it has no present intention to utilize either its Pittsburgh or Burlington facilities to accomplish work under the OSHA recognition system. It further states that any future expansion would be accomplished with official notification to OSHA and an appropriate request for expansion of its recognition. OSHA believes that this approach is well within the process contemplated by the standard.

The on-site review report revealed that MET has a comprehensive calibration program for its test equipment. MET maintains a separate calibration laboratory to calibrate, repair and maintain most of the test equipment used for product testing. Outside vendor calibration services are used occassionally when approved by the Quality Assurance Manager. There is a written equipment calibration program which includes periodic calibration, color coded labels to indicate calibration status, and records of calibration, repairs and maintenance of test equipment.

While MET had no written operating procedures describing the methods and procedures to be used by personnel to evaluate products under a specific test standard at the time of the on-site review, it has taken steps to develop such a formal program. The steps are detailed in the on-site review report which is in the record. OSHA deems these steps to be acceptable and expects that they are being conscientiously

implemented. Follow-up reviews will ascertain the status of this program. MET states that it will perform no tests under the OSHA recognition program until the written test procedures are completed for the particular standard in question.

MET has a written quality assurance program including an internal audit program. As a result of the on-site review, OSHA believes that the program is adequate considering the present scope of the workload and the technical expertise of the personnel. However, OSHA recommended formalizing certain aspects of the program to assure objective evaluations of performance if the laboratory expands or the workload increases. Included in the recommendations was the development of a policy decision handbook to standardize interpretations of technical and administrative discretionary areas.

Type of Testing

The standard contemplates that testing done by NRTLs fall into one of two categories: testing to determine conformance with appropriate test standards, or experimental testing where there might not be one specific test standard covering the new product or material. MET has applied for recognition in the first category.

Follow-up Procedures

Section 1910.7(b)(2) requires that the NRTL shall provide certain follow-up procedures to the extent necessary for the particular equipment or material to be listed, labeled or accepted. These include implementation of control procedures for identifying the listed or labeled equipment or materials, inspecting the production run at factories to assure conformance with test standards, and conducting of field inspections to monitor and assure the proper use of the label. One commentator (Ex. 3–4, p. 4) believed that there is no indication that "such a program exists with this applicant".

Prior to testing, MET requires its manufacturer client to sign a follow-up program agreement permitting MET to conduct follow-up inspections of listed products at the manufacturing site. These follow-up inspections are conducted every three months; products are selected at random from the production line or from inventory for inspection and testing to assure continued conformance with the test standards. The printing and distribution of labels to be affixed to an approved or listed product is carefully controlled. Unresolved discrepancies found during the followup procedures can result in the forfeiture of the right to apply the label, removal of already affixed labels, and possible recall of products sold with the label.

Field inspections may be necessary under various circumstances. The determination on whether to conduct these field inspections routinely, sporadically, or not at all for a given product, will depend upon the results of the factory follow-up and other relevant considerations. As an example, field inspections may be appropriate when the laboratory has reason to believe that its mark or label is being improperly used. Such belief could result from observed events or information from complainants. Another situation necessitating a field inspection could arise where it is impractical to conduct regular factory inspections because of a limited production schedule. It is expected that the decision on conducting field inspections will be continually re-evaluated to fit the circumstances. MET's application demonstrates this flexible approach to field inspections. It states that "periodic inspections of the labeled product are performed at the manufacturing facility, distribution point and retail outlets and, if necessary, in our laboratory in order to assure continued compliance."

The on-site review demonstrated that MET has experience with a follow-up program to correct product problems and insure the integrity of the label. Moreover, OSHA will periodically review the follow-up procedures to evaluate their efficacy.

Independence

Section 1910.7(b)(3) requires that the NRTL be completely independent of employers subject to the tested equipment requirements and of any manufacturer or vendor of equipment or materials being tested. In its application MET indicated that it has a "professional" relationship with its clients and has no economic interest in any of the manufacturers whose products it tests. Nor does any manufacturer have any economic interest in MET. Moreover, no officer of MET owns any stock in any manufacturer whose products MET tests. In addition, MET states that, with the exception of the U.S. government, no single client produces revenues greater than 3 percent of its total corporate income.

MET has stated that it will maintain this same level of independence throughout its existence as a Nationally Recognized Testing Laboratory.

Creditable Reports/Complaint Handling

Section 1910.7(b)(4) provides that an OSHA recognized NRTL must maintain effective procedures for producing creditable findings and reports that are objective and without bias. The laboratory, in order to be recognized, must also maintain effective procedures for handling complaints under a fair and reasonable system.

The MET application as well as the on-site review report indicate that MET does maintain effective procedures for producing creditable findings and reports that are objective. As part of the review, several test reports were reviewed and found to be consistent with the intent of § 1910.7(b)(4)(i) to produce creditable findings and reports. This requirement is, however, essentially procedural in nature (see 53 FR 12111, 4/12/88). OSHA believes that its evaluation of MET's capabilities, including its personnel, equipment, facilities, calibration program, and quality assurance program, as well as its independence, among other things, indicates that there are appropriate procedures being implemented to produce objective test reports that are without bias.

The requirement that a laboratory have a fair and reasonable system for handling complaints was intended to allow interested parties an avenue of redress when, for example, it was believed that an item had been improperly labeled or that an inappropriate test procedure had been applied. It was not intended to interfere with any laboratory's recognized responsibility to decide whether to approve, list, label, or certify any particular type of equipment or material which it had tested. Indeed, many of the ANSI test standards include in the preface a statement specifically indicating that an item may not be acceptable even though it may meet all the test criteria. Rather, 29 CFR 1910.7(b)(4)(ii) was intended to help settle complaints and disputes after an item had been approved, listed, labeled, or certified. MET has a program to assure that the complaints of any interested party, including users of the product, will be fairly handled and resolved. Its procedure requires that the complaint first be presented for resolution in house. If the dispute cannot be resolved, there is a procedure for referring the issue to an impartial third person for resolution.

One respondent (Ex. 3–4, p. 4) objected to MET's dispute handling procedure on the basis that the results would lack consistency as different parties would be involved and different arbitrators could be selected. The essential ingredient in this requirement is that all interested persons have

access to a dispute handling system which is both "fair and reasonable" (cf *ASME* v. *Hydrolevel* 456 U.S. 556, 102 S.Ct. 1935 (1982)). Arbitration and mediation are long recognized and satisfactory methods of resolving disputes between private parties and are consistent with 29 CFR 1910.7(b)(4)(ii).

Test Standards

Section 1910.7 requires that a nationally recognized testing laboratory use "appropriate test standards". The standard defines an appropriate test standard as a document which specifies the safety requirements for specific equipment or a class of equipment and is recognized in the United States as providing an adequate level of safety, compatible with and maintained current with periodic revisions of applicable national codes, and developed by a standards developing organization under a system of providing for broad input from interested parties (§ 1910.7(c)(1), (2), and (3)). The standard also designates as "appropriate" any standard that is currently designated as an ANSI safety designated product standard or an ASTM test standard used for evaluation of products or materials. (See § 1910.7(c)(4)). Laboratories may also use other test standards that the Assistant Secretary of Labor has evaluated to determine that such standard provides an adequate level of safety. (See § 1910.7(d)). In this case, MET has indicated that it will use the ANSI test standards listed below. These are "appropriate test standards" within the meaning of § 1910.7 (b) and (c).

One of the commentators (Ex. 3–4, pp. 2–3) stated that the test standards "are listed without their date of issue" and raised the spectre of inconsistency; they believe "there is need for assurance of testing to latest versions of the standard". MET indicated that part of its testing includes a verification that the standard and reference standards being tested to are the current and most up to-date-standards (see on-site review report). The application and accompanying documentation also addresses the issue of standards revisions. The procedures identified by MET indicate its capability to test to the latest revision of the test standard. This is the same level of assurance that would be required of other recognized laboratories. The procedures to be followed in the event of test standard changes are adequately stated in Appendix A of 29 CFR 1910.7.

Other Issues

One of the respondents (Ex. 3–4) raised a number of issues that were not directly relevant to the issue of MET meeting the definition of an NRTL as set forth in 29 CFR 1910.7. These comments were general criticisms of the standard. For example, one such comment focused on the need to designate and use a single test standard for each product. (Ex. 3–4, pp. 1–2). This issue had been raised by the same respondent during the rulemaking proceeding and was discussed and resolved in the preamble to the final rule (see 53 FR 12108–12109, 4/12/88). Since these general issues were raised and resolved during the promulgation of the standard it is not now timely to comment on them.

Other comments (Ex. 3–4, p. 3) indicated that the "handling of test standards for components raises * * * questions about applicability".

The NRTL Program does not address whether one NRTL must accept another NRTL's listing or recognition of a component. Instead, the laboratory listing the overall product acceptance, listing, or recognition, is responsible for assuring that the components used in the product meet the applicable test standards. If usage or test information is not available, retesting may be prudent.

Another issue raised by a commentator (Ex. 3–4, pp. 5–6) concerned test and evaluation consistency among all NRTLs.

This would be an ideal state which may be achieved in the future when laboratories exchange information on a regular basis. This is not being accomplished by the presently nationally recognized testing laboratories in their standards or interpretations. In addition, consistent interpretation of standards between the two presently recognized Nationally Recognized Testing Laboratories is not the case in every instance.

Final Decision and Order

Based upon a preponderance of the evidence resulting from an examination of the complete application, the supporting documentation, the OSHA staff finding including the on-site review report, and the comments presented during the public review and comment period, OSHA finds that the MET Electrical Testing Company, Inc., has met the requirements of 29 CFR 1910.7 to be recognized by OSHA as a Nationally Recognized Testing Laboratory to test and certify certain equipment or materials.

Pursuant to authority in 29 CFR 1910.7, it is ordered that the MET Electrical Testing Company, Inc., be recognized as a Nationally Recognized Testing Laboratory subject to the conditions listed below.

This recognition is limited to equipment or materials which, under 29 CFR Part 1910, require testing, listing, labeling, approval, acceptance, or certification, by a Nationally Recognized Testing Laboratory. This recognition is limited to the use of the following test standards for the testing and certification of equipment or materials included within the scope of these standards:

The listing is by MET product catagory. MET has stated that all the standards in these catagories are used to test equipment or materials which can be used in environments under OSHA's jurisdiction.

(1) Audio/Video Equipment

ANSI/UL #1270—Radio Receivers, Audio Systems, and Accessories
ANSI/UL #1410—Television Receivers and High-Voltage Video Products

(2) Energy Monitoring Equipment

ANSI C12.1—Code for Electricity Meters
IEEE/ANSI C57.13—Terminology and Test Code for Instrument Transformers

(3) Food Preparation Equipment

ANSI/UL #197—Commercial Electric Cooking Appliances
ANSI/UL #471—Commercial Refrigerators and Freezers
ANSI/UL #982—Motor-Operated Household Food Preparing Machines

(4) Heating, Ventilation Equipment

ANSI/UL #465—Central Cooling Air Conditioners
ANSI/UL #484—Room Air Conditioners
ANSI/UL #499—Electric Heating Appliances
ANSI/UL #559—Heat Pumps
ANSI/UL #883—Fan-Coil Units and Room Fan-Heater Units
ANSI/UL #1025—Electric Air Heaters
ANSI/UL #1042—Electric Baseboard Heating Equipment

(5) Industrial Control Equipment

ANSI/UL #508—Electric Industrial Control Equipment

(6) Lighting Fixtures

ANSI/UL #153—Portable Electric Lamps
ANSI/UL #676—Underwater Lighting Fixtures
UL #1570—Fluorescent Lighting Fixtures
ANSI/UL #1571—Incandescent Lighting Fixtures

(7) Medical and Dental Equipment

ANSI/UL #187—X-Ray Equipment
UL #544—Electric Medical and Dental Equipment
ANSI/UL #1069—Hospital Signaling and Nurse-Call System

(8) Motor Operated Equipment

ANSI/UL #73—Electric Motor-Operated Appliances
ANSI/UL #507—Electric Fans
ANSI/UL #705—Power Ventilators

(9) Office/Business Equipment

ANSI/UL #114—Electric Office Appliances and Business Equipment
UL #478—Information-Processing and Business Equipment
UL #1459—Telephone Equipment

The MET Electrical Testing Company, Inc., also must abide by the following conditions of its recognition, in addition to those already required by 29 CFR 1910.7:

The Occupational Safety and Health Administration shall be allowed access to MET's facilities and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If MET has reason to doubt the efficacy of any test standard it is using under this program, it shall promptly inform the test standard developing organization of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

MET shall not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, MET agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

MET will continue to meet the requirements for recognition in all areas for which it has applied; and

MET will cooperate with OSHA at all times to assure compliance with the letter as well as the spirit of its recognition and 29 CFR 1910.7.

Effective Date: This recognition will become effective on May 16, 1989, and will be valid for a period of five years from that date, until May 16, 1994, unless terminated prior to that date, in accordance with 29 CFR 1910.7.

Signed at Washington, DC this 9th day of May, 1989.

Alan C. McMillan,

Acting Assistant Secretary.

[FR Doc. 89-11564 Filed 5-15-89; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 89-37]

Intent to Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Ethyl Corporation of Baton Rouge, Louisiana, a limited exclusive royalty-bearing, revocable license to practice the inventions as described in:

U.S. Patent No. 4,595,548, entitled "Process for Preparing Essentially Colorless Polyimide Film Containing Phenoxy-Linked Diamines," which issued June 17, 1986, and

Canada Patent No. 1,248,281, entitled "Process for Preparing Essentially Colorless Polyimide Film Containing Phenoxy-Linked Diamines," which issued January-3, 1989, and

U.S. Patent No. 4,603,061, entitled "Process for Preparing High Optically Transparent-Colorless Aromatic Polyimide Film," which issued July 20, 1986, and

Canada Patent No. 1,248,282, entitled "Process for Preparing High Optically Transparent-Colorless Aromatic Polyimide Film," which issued January 3, 1989.

NASA further intends to grant Ethyl Corporation a limited royalty bearing, revocable exclusive option for the following pending patent applications: NASA Case LAR-13,769-1; U.S. Serial No. 073,542, filed July 15, 1987, entitled "Method for Preparing Low Dielectric Polyimides." Inventors: Anne K. St. Clair, Terry L. St. Clair and William P. Winfree.

NASA also intends to grant Ethyl Corporation a limited, royalty bearing revocable exclusive option for the following foreign patent applications which correspond to the U.S. Serial No. 073,542:

Country	Filing date	Serial number
Australia	7-12-88	18954/88.
Canada	7-14-88	572,018-4.
EPO (designating France, England, Germany, Belgium, Switzerland, Sweden, and Italy)	7-12-88	88401812.8-2102.
Japan	7-15-88	176845/88.
Taiwan	6-29-88	771040826.

The proposed exclusive license and the proposed exclusive option will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing receives the written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Associate General Council (Intellectual Property) whether to grant the exclusive license and the exclusive option.

DATE: Comments to this notice must be received July 17, 1989.

ADDRESS: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 453-2430.

Date: May 9, 1989.

Edward A. Frankle,

General Counsel.

[FR Doc. 89-11678 Filed 5-15-89; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786-0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

1. *Date:* June 1, 1989
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review Publication Subvention applications in Art and Philosophy, submitted to the Division of Research Programs, for projects beginning after September 1, 1989.
2. *Date:* June 2, 1989
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review applications in Regrants Programs, submitted to the Division of Research Programs, for projects beginning after September 1, 1989.
3. *Date:* June 2, 1989
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 415
   Program: This meeting will review biennial proposals from State Humanities Councils to the Division of State Programs, for projects beginning after November 1, 1989.
4. *Date:* June 5, 1989
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 415
   Program: This meeting will review biennial proposals from State Humanities Councils to the Division of State Programs, for projects beginning after November 1, 1989.
5. *Date:* June 9, 1989
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 415
   Program: This meeting will review biennial proposals from State Humanities Councils to the Division of State Programs, for projects beginning after November 1, 1989.
6. *Date:* June 12, 1989
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 415
   Program: This meeting will review biennial proposals from State Humanities Councils to the Division of State Programs, for projects beginning after November 1, 1989.
7. *Date:* June 12-13, 1989
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 430
   Program: This meeting will review applications for Undergraduate Education, submitted to the Office of Challenge Grants, for projects beginning after December 1, 1989.
8. *Date:* June 19-20, 1989
   Time: 9:00 a.m. to 5:00 p.m.
   Room: 430
   Program: This meeting will review applications for Undergraduate and Pre-Collegiate Education, submitted to the Office of Challenge Grants, for projects beginning after December 1, 1989.
9. *Date:* June 22, 1989
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 315
   Program: This meeting will review applications in Elementary and Secondary Education in the Humanities, submitted to the Division of Education Programs, for projects beginning after November 1, 1989.
10. *Date:* June 26-27, 1989
    Time: 9:00 a.m. to 5:00 p.m.
    Room: 430
    Program: This meeting will review applications for Undergraduate Education, submitted to the Office of Challenge Grants, for projects beginning after December 1, 1989.
11. *Date:* June 27, 1989
    Time: 8:30 a.m. to 5:00 p.m.
    Room: 315
    Program: This meeting will review applications in Elementary and Secondary Education in the Humanities, submitted to the Division of Education Programs, for projects beginning after November 1, 1989.
12. *Date:* June 29, 1989
    Time: 8:30 a.m. to 5:00 p.m.
    Room: 315
    Program: This meeting will review applications in Elementary and Secondary Education in the Humanities, submitted to the Division of Education Programs, for projects beginning after December 1, 1989.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 89-11619 Filed 5-15-89; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-603]

Environmental Assessment and Finding of No Significant Impact Concerning An Amendment To Construction Permit No. CPEP-1, All Chemical Isotope Enrichment, Inc., Oak Ridge, TN

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Construction Permit No. CPEP-1 of All Chemical Isotope Enrichment, Inc., (AlChemIE) Facility-1 CPDF, located in Oak Ridge, Tennessee.

Environmental Assessment

Identification of the Proposed Action: The proposed action would amend the latest date for completion of the modification under CPEP-1 from May 3, 1989 to November 3, 1989.

The Need for the Proposed Action: Amendment of the latest completion date extends the period for completion of the modification allowed by the construction permit. Initiation of the work has been delayed pending completion of necessary contractual arrangements.

Environmental Impacts of the Proposed Action: The effect of the proposed action is to extend for six months the latest completion date in the construction permit for modification of the facility. It is expected that the modification will be performed in the period May to November 1989 rather than in the period February to May 1989. Postponing the work from one season of the year to another does not appreciably alter the environmental impacts, which have been previously assessed.

Conclusion: The staff concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action: Alternatives to the proposed action include complete denial of the requested change in the construction permit. Such a denial would cause the construction permit CPEP–1 to expire, and all rights there under would be forfeited. The permit holder might find it necessary to submit a new application and repeat the process of securing a construction permit; this would delay the work further.

Extension of the latest completion date to a date earlier than November 3, 1989, might not provide sufficient time and thus might create the need for a second extension of the construction permit time period.

Agencies and Persons Consulted: None; in performing this assessment, staff utilized documents previously submitted by AlChemIE; the Environmental Report submitted November 17, 1987, and Revision 7 of the Security Plan dated January 1989.

Finding of No Significant Impact

On the basis of the above environmental assessment, the Commission has concluded that the environmental impacts created by the proposed change in the Construction Permit would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate. AlChemIE's letter of April 18, 1989, regarding the amendment is available for public inspection and copying in the Commission's Public Document Room at the Gelman Building, 2120 L Street NW., Washington, DC.

Dated at Rockville, Maryland, this 8th day of May, 1989.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 89–11683 Filed 5–15–89; 8:45 am]

BILLING CODE 7590–01–M

Correction to Biweekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

The above notice was published on April 19, 1989 (54 FR 15820). A sentence was omitted in the following part of this notice: Page 15841, second column, heading entitled "Washington Public Power Supply System, Docket No. 50–397, Nuclear Project No. 2, Benton County, Washington." The subsection describing the request should read as follows:

Description of amendment request: License condition 2.C.(16), Attachment 2, Item 3(b), Wide Range Neutron Flux Monitor, requires the licensee to implement the requirements of Regulatory Guide 1.97, Rev. 2 for flux monitoring prior to startup following the fourth refueling outage. The requested amendment would defer the requirement for flux monitoring to the end of the fifth refueling outage.

Robert Samworth,

Project Manager, Project Directorate No. V, Division of Reactor Projects–III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–11684 Filed 5–15–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–361 and 50–362]

Southern California Edison Co., et al.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–10 and NPF–15 issued to Southern California Edison Company (SCE), San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California (the licensees), for operation of San Onofre Nuclear Generating Station, Units 2 and 3 located in San Diego County California. The request for amendments was submitted by letter dated April 7, 1989, and identified as Proposed Change PCN–291.

The proposed change would revise Technical Specification 3/4.4.10, "Reactor Coolant Gas Vent System." This specification requires operability of the Reactor Coolant Gas Vent System in Modes 1, 2, 3 and 4, which ensures that noncondensable gases which could inhibit natural circulation core cooling can be exhausted from the primary system following a design basis event. This specification also provides actions to be taken should the operability requirements not be met as well as surveillance requirements to periodically demonstrate operability of the system.

Surveillance Requirement 4.4.10 requires that each reactor coolant system vent path be demonstrated operable at least once per 18 months. The proposed change would revise the frequency of this surveillance to at least once per refueling interval.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 15, 1989 the licensees may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses, and any person whose interests may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to

intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington and Sutcliffe, Attention: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111, attorneys for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in the 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazardous consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect ot this action, see the application for amendments which is available for public inspection at the Commission's public Document Room, 2120 L Street NW., Washington, DC, and at the General Library, University of California at Irvine, Irvine, California 92713.

Dated at Rockville, Maryland, this 3rd day of May, 1989.

For the Nuclear Regulatory Commission.

Robert B. Samworth,

Senior Project Manager, Project Directorate V, Division of Reactor Projects III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–11685 Filed 5–15–89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–266 and 50–301]

Wisconsin Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 120 to Facility Operating License No. DPR–24 and Amendment No. 123 to Facility Operating License No. DPR–27, issued to Wisconsin Electric Power Company, which revised the Technical Specifications for operation of the Point Beach Nuclear Plant, Units 1 and 2, located in Manitowoc County, Wisconsin. The amendments were effective as of the date of issuance for Unit 1 and on November 1, 1989 for Unit 2.

The amendments modified the Technical Specifications relating to the design and operation of the Point Beach fuel cycle with upgraded core features and higher core power peaking factors (F_Q and F-delta H) than previously permitted by the plant Technical Specifications.

Specifically, the amendments incorporate higher core power peaking factors which allow the use of a low-low leakage loading pattern (L4P) fuel management strategy and will result in decreased neutron fluence to the reactor vessel. This fluence reduction will help address reactor vessel irradiation damage issues such as pressurized thermal shock, low upper shelf material toughness and pressure-temperature restrictions on heatup and cooldown. The higher core power peaking factors allow additional fluence reduction measures, such as the use of peripheral power suppression assemblies, to be pursued.

In addition to the increase in core power peaking factors, the changes and reanalysis supporting them permit the use of an upgraded fuel product features package. The upgraded fuel product features include: removable top nozzles, integral fuel burnable absorbers, axial blankets, extended burnup geometry, and inclusion of a debris filter bottom nozzle. The reactor core description was modified to reflect these changes. Further, these amendments allow the removal of the fuel assembly thimble plugging devices and the elimination of the third line segment of the K(z) curve.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on December 6, 1988 (53 FR 49260) and February 6, 1989 (54 FR 5707). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of these amendments will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendments dated August 26, 1988; as supplemented October 28, November 30, and December 23, 1988 and as modified January 17, 1988 (sic), (2) Amendment No. 120 to License No. DPR–24, (3) Amendment No. 123 to License No. DPR–27, and (4) the Commission's related Safety Evaluation and Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street NW., and at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin. A copy of items (2), (3) and (4) may be obtained upon request

addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III, IV, V and Special Projects.

Dated at Rockville, Maryland this 8th day of May 1989.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Acting Director, Project Directorate III-3 Division of Reactor Projects III, IV, V and Special Projects Office of Nuclear Reactor Regulation.

[FR Doc. 89-11686 Filed 5-15-89; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Approval of Standard Form 3105 A-E Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request to reinstate an information collection from the public. Standard Form 3105 A-E, Documentation in Support of Disability Retirement Application, is completed by a Federal employee participating in the Federal Employees Retirement System (FERS), the employee's personnel office, and the employee's physician to provide documentation necessary for OPM to determine if the individual meets the requirements of 5 U.S.C. 8451, for disability retirement under FERS. Standard Form 3105 includes five information collections; however, only one, SF 3105C, Physician's Statement, collects information from the public. This request applies only to SF 3105C. Approximately 1,450 forms are completed annually; each SF 3105C, Physician's Statement, requires approximately 1 hour to complete, for a total public burden of 1,450 hours. For copies of this proposal, call Larry Dambrose, on 632-0199.

DATES: Comments on this proposal should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to—

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW., Room 6410, Washington, DC 20415, and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building NW., Room 3235, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632-5472.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 89-11641 Filed 5-15-89; 8:45 am]

BILLING CODE 6325-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) *Collection title:* Application for Search of Census Records (For Railroad Retirement purposes only).

(2) *Form(s) submitted:* G-256.

(3) *OMB Number:* 3220-0106.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Individuals or households.

(8) *Estimated annual number of respondents:* 250.

(9) *Total annual responses:* 250.

(10) *Average time per response:* .168 hours.

(11) *Total annual reporting hours:* 42.

(12) *Collection description:* Under the Railroad Retirement Act, an application for benefits based on age must be supported by proof of the age claimed. The application will obtain proof of an applicant's age from the Bureau of the Census when other evidence is unavailable.

Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Ronald Ritter, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Ronald Ritter, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Justin Kopca (202-395-7316), Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC 20503.

Ronald Ritter,

Acting Director of Information Resources Management.

[FR Doc. 89-11672 Filed 5-15-89; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26805; File Nos. SR-NYSE-88-29; SR-NYSE-88-8; SR-NASD-88-29; SR-NASD-88-51; SR-NASD-89-19; SR-AMEX-88-29]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes by the New York Stock Exchange, Inc., National Association of Securities Dealers, Inc., and the American Stock Exchange, Inc. Relating to the Arbitration Process and the Use of Predispute Arbitration Clauses

I. Introduction and Background

The New York Stock Exchange, Inc. ("NYSE"), the National Association of Securities Dealers, Inc. ("NASD") and the American Stock Exchange, Inc. ("AMEX") have each submitted to the Securities and Exchange Commission ("Commission" or "SEC") [1] proposed rule changes pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [2] and Rule 19b-4 thereunder [3] to

[1] SR-NYSE-88-29 was submitted on October 14, 1988 and amended on January 6, 18 and 19, 1989 and April 28, 1989. SR-NYSE-88-8 was submitted on March 28, 1988 and amended on October 12, 1988 and January 18, 1989. SR-NASD-88-29 was submitted on July 1, 1988 and amended on September 19, 1988, October 7, 1988, April 18 and 19, 1989 and May 5, 1989. SR-NASD-88-51 was submitted on November 7, 1988 and amended on December 23, 1988, January 26, 1989 and April 18, 1989. SR-NASD-89-19 was submitted on March 27, 1989 and amended on April 17, 1989. SR-AMEX-88-29 was submitted on November 18, 1988 and amended on April 26, 1989 and May 3, 1989.

In addition, the Municipal Securities Rulemaking Board ("MSRB"), the Pacific Stock Exchange ("PSE") and the Midwest Stock Exchange ("MSE") have also submitted proposed changes to their arbitration rules. The MSRB submitted its filing, SR-MSRB-88-5 on November 23, 1988, and submitted amendments on March 13, 1989. The PSE submitted its filings, SR-PSE-88-7 on October 24, 1988 and SR-PSE-19 on November 8, 1988. The MSE submitted its filing on December 23, 1988. These filings are currently being reviewed and, accordingly, are not included in this approval order.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b-4 (1987).

amend their current rules for administering arbitration proceedings.[4] The proposed amendments address many issues regarding the fairness and efficiency of the arbitration process administered by the SROS and also would institute new requirements applicable to the use by SRO members of predispute arbitration clauses in agreements with customers.

Notice of the proposed rule changes together with the terms of substance of the proposals was given by the issuance of Securities Exchange Act releases and by publication in the **Federal Register.**[5] Eight comment letters were received from six commenters regarding the proposals. All of the commenters expressed general support for the revisions to the SROs' rules relating to arbitration, but had specific comments on certain provisions in the proposals. The Commission has reviewed carefully the filings submitted by the SROs, as well as the comments received, and has determined that the proposed rule changes are consistent with the Act, including those requirements set forth in section 6(b) and 15A(b) of the Act.

II. Background

The SROs have worked together over the past twelve years to develop uniform arbitration rules through the auspices of the Securities Industry Conference on Arbitration ("SICA"). SICA was formed by the securities industry in 1977 at the Commission's invitation to review then existing arbitration procedures as an alternative to the implementation of the Commission's own proposals fo establish a system for the resolution of disputes between broker-dealers and their customers.[6] SICA is comprised of a representative from each SRO that administers an arbitration program,[7] a representative of the securities industry, and four representatives of the public. In the years between the initial development of the Uniform Code of Arbitration ("Uniform Code") and September 1987, SICA met periodically to discuss issues that arose in the administration of the code, and to develop any necessary amendments.

On September 10, 1987, after a review of securities industry-sponsored arbitration, the Commission sent to SICA a letter that set out its views regarding the need for changes to the Uniform Code.[8] The Commission also sent letters to the SROs on July 8, 1988 requesting that the SROs review the issues raised by the current use of mandatory predispute arbitration agreements by their member firms.[9] Since September 1987, SICA and its subcommittees have met regularly to develop proposals in response to the Commission's letters.

The SROs have filed nearly identical rule proposals. For convenience, the discussion in the text of the proposals sometimes refers only to NYSE rule numbers. The corresponding rules of the NASD and AMEX are referenced in the footnotes, which also identify differences among the SROs' rules.

The majority of the proposals to amend the SROs' rules were based on changes in the Uniform Code made by SICA largely in response to the September 1987 and July 1988 Commission letters.[10] The other proposals included in this order were developed to meet concerns that have arisen through the administration of the arbitration programs.

III. Description of the Proposals, Summary of Comments and Analysis

A. Service of Pleadings

The SROs have proposed to modify the procedures for service of pleadings. Currently, the arbitration departments of the SROs serve all pleadings on the parties. As cases have increased, using the arbitration department as an intermediary for the service of pleadings has added unnecessarily to delays in processing cases and to the cost of operating the arbitration system. The SROs propose to serve only the initial pleading in a case, the "claim," and to require that parties serve all subsequent pleadings directly upon one another. This approach is intended to save administrative time and costs while continuing to ensure that respondents receive adequate notice of the institution of arbitration proceedings.

Under the proposal, parties also will be required to supply the department of arbitration with sufficient copies of the pleadings for the arbitration department staff and each of the arbitrators. The proposal specifies that service by first-class postage prepaid or by overnight mail service is considered to be made on the date of mailing and service by other means is considered to be made on the date of delivery.

This proposed rule change would apply both to arbitration proceedings conducted pursuant to the simplified procedures for small claims under NYSE Rule 601 and regular cases initiated pursuant to NYSE Rule 612.[11] No commenters specifically addressed this proposal. The Commission believes that this proposed rule change should improve the efficiency and speed of arbitration proceedings administered by the SROs.

B. Classification of Arbitrators

The arbitration panels at the SROs for cases involving public customers have historically been composed of a majority of "public arbitrators" and a minority of "industry arbitrators". All arbitrators,

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[4] Collectively these organizations are referred to below in the text as the self-regulatory organizations ("SROs").

[5] Noticed of SR-NYSE-88-29 was given in Securities Exchange Act Release Number 26474, (January 19, 1989) and in 54 FR 3883, (January 26, 1989). Notice of SR-NYSE-88-8 was given in Securities Exchange Act Release No. 26515, (February 2, 1989) and in 54 FR 6224, (February 8, 1989). Notice of SR-NASD-88-29 was given in Securities Exchange Act No. 26242, (November 2, 1988), in 53 FR 45640, (November 10, 1988). Notice of SR-NASD-88-51 was given in Securities Exchange Act Release No. 26584, (March 1, 1989) and in 54 FR 9955, (March 8, 1989). Notice of SR-NASD-89-19 was given in Securities Exchange Act Release Number 26719, (April 12, 1989), and in 54 FR 15860 (April 19, 1989). Notice of SR-AMEX-88-29 was given in Securities Exchange Act Release No. 26475, (January 19, 1989) and in 54 3878, (January 26, 1989).

[6] The resulting Uniform Code of Arbitration is also used for the resolution of intra-industry disputes, (*e.g.*, disputes between members of an SRO or between a member of an SRO and an associated person of a member, such as a registered representative.) Unless otherwise limited by the terms of the rules, the amendments included in this filing also pertain to intra-industry disputes.

[7] The SROs that administer an arbitration program are the NYSE, NASD, AMEX, MSRB, PSE, MSE, Boston Stock Exchange, Chicago Board Options Exchange, Cincinnati Stock Exchange and Philadelphia Stock Exchange.

[8] *See* letter frm Richard G. Ketchum, Director, Division of Market Regulation, SEC, to James E. Buck, Senior Vice President, NYSE, dated September 10, 1987 ("September 10, 1987 letter"). This letter was also addressed separately to each of the other members of SICA.

[9] *See* letter from David S. Ruder, Chairman, SEC, to John J. Phelan, Jr., Chairman, NYSE dated July 8, 1988 ("July 8, 1988 letter"). This letter was also addressed to the senior executive officers of all other SROs that administer arbitration facilities.

[10] The SRO rules developed in response to the Commission's letters are NYSE Rules 607, 608, 610, 619, 623, 627, 629(b) and 637; AMEX Rules 602, 603, 607, 614, 618, 620(b) and 427; and NASD Sections 19, 21, 23, 32, 37, 41 and 43(b) of the NASD Code of Arbitration Procedure and Section 21 of Article III of the NASD Rules of Fair Practice.

[11] AMEX Rules 606 and 621, and NASD Sections 13 and 25. In addition, the proposed rule change to the NASD's Section 25 provides that where both an NASD member firm and a person associated with the member firm are named parties to an arbitration proceeding, service on the associated person may be made either on the associated person, or on the member firm, which would then have the obligation to perfect service on the associated person. Proposed Section 25 also provides that if the firm does not undertake to represent the associated person, the member firm must serve the associated person, advise all parties and the director of arbitration that the firm is not representing the associated person, and must provide the associated person's current address. The NYSE and AMEX did not propose such a requirement.

both public and industry, are required to be neutral, and may have no affiliation or bias towards either party.[12] There have not been, however, clear requirements or specifications for who may serve as a public arbitrator. The SROs' proposals would specify who may not serve as a public arbitrator and who may serve as an industry arbitrator.

In its September 10, 1987 letter, the Commission endorsed the continued use of mixed public/industry panels. The Commission also stated, however, that "[t]he absence of clear guidelines for qualifying public arbitrators * * * and the inclusion in the pool of public arbitrators of persons with clear affiliations with the securities industry is a source of great concern." The Commission recommended that "arbitration panels include persons who are not so connected with the industry that it may hinder their ability to make independent judgments with respect to specific industry practices." The letter set out specific examples of types of persons who the Commission preliminarily believed should not serve as public arbitrators. In response to the SEC's request, SICA revised its definition of public and industry arbitrators. The proposals address the potential for real or apparent bias on the part of public arbitrators who may have some professional or personal association with the securities industry.

The Uniform Code defines as an industry arbitrator one who is associated with a member of an SRO, broker, dealer, government securities broker, government securities dealer, municipal securities dealer, or registered investment adviser. The SICA rule permits an individual who had been associated with one of these to become a public arbitrator after three years, if the individual has gone on to other work and is not retired from the securities industry. All industry retirees will no longer be permitted to serve as public arbitrators, but may continue to serve as industry arbitrators.

The rule also deals with the appropriate role in the arbitration system of professionals such as attorneys or accountants who provide services to securities industry clients. The rule would classify as industry arbitrators, rather than public arbitrators, attorneys, accountants and other professionals who devoted twenty percent or more of their professional work effort to securities industry clients within the last two years. In addition, the rule excludes from service as a public or industry arbitrator persons who are spouses or other members of the household of a person associated with a registered broker-dealer, municipal securities dealer, government securities dealer or investment adviser.

NYSE Rule 607 defines industry and public arbitrators differently in two respects from the rule developed by SICA and adopted by the other SROs. The NYSE has extended from three years to five years the time period during which one who had been employed in the securities industry may not serve as a public arbitrator. In addition, the NYSE has proposed to exclude anyone from its public arbitrator rolls who had spent a substantial part of his or her business career in the securities industry, notwithstanding the passage of five years. Accordingly, under the NYSE proposal, an individual who had worked in the securities industry for a substantial period of time and then left the profession for some other work would not, after five years, be assigned to its public arbitrator roster.[13]

The AMEX rule for the classification of arbitrators is Rule 602, and the NASD rule is Section 19. The AMEX and NASD rules do not include the two changes from the Uniform Code that have been proposed by the NYSE. Further, while the NYSE and AMEX have included persons associated with investment advisers within their industry arbitrator pools consistent with the Uniform Code, the NASD has concluded that investment advisers not associated with broker-dealers are more akin to investors and should be placed in the public arbitrator pool.

The SROs also proposed disclosure provisions designed to assist parties in assuring that the panel assigned to each case is appropriately balanced. Specifically, under the proposed SRO rules, the employment histories of the arbitrators for the past ten years as well as the information provided by arbitrators pursuant to a separate disclosure rule [14] will be disclosed.[15]

Four commenters, Public Citizen Litigation Group ("Public Citizen"), Plaintiff Employment Lawyers Association ("PELA"), Shearson Lehman Hutton ("Shearson") and the Securities Industry Association ("SIA") submitted comments regarding the selection of arbitrators.[16] Public Citizen stated that these proposals do not go far enough to address concerns of arbitrator bias.[17] It observed that the qualifications for public arbitrators are not strict enough. It believes that a three year period between securities industry employment and serving as a public arbitrator is too short, particularly in the case of one who has worked in the securities industry for a long time. In contrast, the SIA, which endorsed the proposals with respect to public and industry arbitrators, commented that it believed that the three year period established by SICA for permitting former securities industry personnel to serve as public arbitrators was preferable to the NYSE's five year rule. The SIA stated that it thought that the five year rule would make it too difficult to find public arbitrators, and commented that the Commission should suggest that the NYSE conform its rule to SICA's Uniform Code.

Also, Public Citizen objected to persons whose partners represent the securities industry being able to serve as public arbitrators. Public Citizen argued this to be inappropriate because the economic ties between partners give rise to an appearance of bias that should exclude such persons from the public arbitrator pool. Public Citizen suggested that at a minimum parties be allowed challenges for cause against such persons. Finally, Public Citizen commented that the provision allowing professionals such as lawyers and accountants who have received some

[12] This is different from tripartite arbitration where each party designates an arbitrator and the designated arbitrators then agree upon a third arbitrator. *Cf.*, Elkouri, Frank et al., *How Arbitration Works*, 4th ed. (1985), BNA, at page 136; and *Domke Comm. Arb.* § 27.01 (Rev. ed., Wilner) 1985-1988 Callahan & Co.

[13] The NYSE has also included in its filing guidelines for the classification of arbitrators to complement its classification rule. In the guidelines, the NYSE states that while it will continue to classify as public arbitrators lawyers and other professionals whose partners represent the securities industry, it will recognize challenges for cause against them.

[14] The disclosure rule is a proposed rule change discussed in Section C of this order. The rule would require arbitrators to make extensive disclosures to the parties.

[15] NYSE Rule 608, AMEX Rule 603 and NASD Section 23.

[16] *See* letters from Eric R. Glitzenstein, Esq. and Alan B. Morrison, Esq., Public Citizen, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, and to Catherine McGuire, Special Assistant to the Director, Division of Market Regulation, SEC, dated July 15, 1988 and February 16, 1989, respectively; letter from Cliff Palefsky, Esq., PELA, to Robert Love, Special Counsel, SEC, dated December 28, 1988; letter from Robert C. Dinerstein, Executive Vice President and General Counsel, Shearson, to Jonathan G. Katz, Secretary, SEC, dated February 15, 1989; and letters from William Fitzpatrick, Senior Vice President and General Counsel, SIA, to Jonathan G. Katz, dated February 15 and 16, 1989.

[17] PELA commented that while the new rules were a significant improvement, the arbitrator pool needed to be broadened. While its comments did not address specifically the proposals before the Commission, PELA expressed its view that panels should include plaintiffs' lawyers as well as the defense lawyers that it believes now are on the panels, and that there are insufficient women and minorities on the panels.

income from securities industry clients (not exceeding 20% during over a two year period) to serve as public arbitrators is overly permissive. It commented that 20% could constitute an attorney's "single greatest and most consistent source of income." Public Citizen suggested a flat rule prohibiting public arbitrators from receiving any income from the securities industry.[18] Shearson supported the new definitions of public and industry arbitrators.

The changes proposed regarding the classification of arbitrators are very significant to the continued success of SRO arbitration. These proposals are designed to promote impartial and knowledgeable decisions in the arbitration of disputes between investors and broker-dealers. The reclassification of securities industry retirees to the industry arbitrator pool and the codification of past SRO practice by establishing a three year period before a former securities industry employee may serve as a public arbitrator should relieve doubts that investors have had regarding the impartiality of the public arbitrator pool. Similarly, the judgment to exclude from the public arbitrator pool lawyers, accountants and other professionals who regularly service the securities industry makes clearer the distinctions between the two arbitrator pools.[19]

The Commission believes that these proposals reflect a reasonable judgment in striking a necessary balance in obtaining impartial and qualified arbitrators, and take appropriate account of the need to avoid arbitrarily limiting the pool of knowledgeable public arbitrators. The three year time period proposed by the NASD and the AMEX, and five year period of time that has been proposed by the NYSE, before one who had been associated with the securities industry may serve as a public arbitrator, are both consistent with the Act. Three years should be a sufficient period of time, in the Commission's view, to develop the prospective arbitrator's independence from identification with the industry. Five years also achieves that goal and should not be overly burdensome to the administration of arbitration programs.

The disclosure of arbitrators' employment history and other information also furthers the goal of providing disinterested arbitrators for the panels. The disclosures will give parties a full understanding of their arbitrators' backgrounds, as well as the opportunity to use the disclosure information in connection with the exercise of their peremptory and, under the NYSE guidelines, cause challenges of arbitrators. For example, the requirement under the proposed rules [20] that a prospective arbitrator disclose whether his partners regularly represent the securities industry, coupled with the ability to challenge a prospective arbitrator, should be sufficient to address the concerns regarding the independence of arbitrators raised by Public Citizen.

C. Arbitrator Disclosure and Background Information to be Supplied to the Parties

The SROs have also proposed changes to their rules dealing with disclosures to be made by arbitrators, and with the provision of arbitrator disclosures to the parties. NYSE Rule 610(a) establishes the specific disclosure obligations of arbitrators by incorporating the disclosure provisions of the American Bar Association/ American Arbitration Association Code of Ethics for Arbitrators in Commercial Disputes ("ABA/AAA Code").[21] The rule requires that arbitrators disclose any existing or past financial, business, professional, family or social relationships that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. These disclosures extend to any relationships the arbitrators may have with any party, or its counsel, or with any individual whom they have been advised will be a witness. Under the provision, arbitrators are also to disclose any such relationship involving members of their families or their current employers, partners or business associates.

Rule 610(b) admonishes prospective arbitrators to make a reasonable effort to inform themselves of any interests or relationships described in paragraph (a). Rule 610(c) advises arbitrators that the duty to disclose under paragraph (a) of the rule is an ongoing duty, and that any person who serves as an arbitrator must disclose at any stage of the arbitration proceeding any such interests, relationships, or circumstances that arise, or that are recalled or discovered. Also, under Rule 610(d), the NYSE has clarified that prior to the first session, the director of arbitration may remove an arbitrator based on information disclosed pursuant to the rule. Parties are to be informed of any information disclosed pursuant to the rule if the arbitrator has not been removed.[22]

As discussed above, NYSE Rule 608 [23] provides that parties will be informed of the names and business affiliations of the arbitrators for the past ten years, as well as any information disclosed pursuant to the disclosure rule at least eight days prior to the date fixed for the initial hearing session. Under the rule, parties may also make further inquiry through the department of arbitration concerning the arbitrators' background.

Under the current rules, parties have been provided only with the names and current business affiliations of the arbitrators proposed for their cases. Parties have had to request specifically any other information from the arbitration departments, within very short time frames. Although arbitrators were provided with the ABA/AAA Code, there were no clear guidelines to the arbitrators on the applicability of the code.

In the Commission's September 1987 letter, the Commission recommended

[18] Public Citizen also expressed strong reservations concerning the use of industry arbitrators. In particular, Public Citizen noted that industry arbitrators may be called upon in a particular case to interpret anti-fraud provisions which are also applicable to their business conduct. Public Citizen's letter also stated that public arbitrators are both neutral and expert, and that therefore further industry expertise is unnecessary. However, securities industry sponsored arbitration traditionally relies upon the expertise of securities industry arbitrators, who have daily experience with the workings of the industry that persons unaffiliated with the industry do not. Industry arbitrators are required to be neutral, and as discussed in Section C of this order, must disclose any possible conflict they may have with industry parties. The Commission cannot conclude at the present time that the use of industry arbitrators is inappropriate or inconsistent with the Act. The Commission will, however, carefully monitor the operation of these proposed rule changes and will consider modifications if future developments warrant.

[19] There are differences of judgement among the SROs' proposals with respect to whether investment advisers ought to serve as industry or public arbitrators. The SICA draft, proposed by the NYSE and AMEX, excludes investment advisers from the public arbitrator pool in the hopes of addressing any possible perceptions of bias that may arise. The NASD has concluded that because investment advisers owe their duty to investors rather than the industry, they are properly classified as public arbitrators. It is not inconsistent with the Act to permit this divergence in approach among the SROs.

[20] NYSE Rule 610(a)(2), AMEX Rule 603(a)(2) and NASD Section 23(a)(2).

[21] AMEX Rule 603 and NASD Section 23 also incorporate the disclosure provisions of the ABA/ AAA Code.

[22] Once the arbitration panel is sworn, it controls all of the procedural aspects of the hearing. Accordingly, under the Uniform Code, the director of arbitration may not remove an arbitrator after the hearings have begun. An arbitrator should be alert to the guidelines set out in the ABA/AAA Code and the applicable law with respect to arbitrator bias, and remove himself from the panel when conflicts arise after hearings have begun. *See* Canon II. E. (2) of the ABA/AAA Code.

[23] AMEX Rule 602 and NASD Section 21.

that SICA make the two changes proposed in these filings to the Uniform Code's arbitrator disclosure provisions. The Commission stated that incorporating the specific scope of disclosures for arbitrators contained in the ABA/AAA Code into the Uniform Code's disclosure rule "would provide the necessary guidance to arbitrators about the types of relationships that may create conflicts of interest."

The Commission also recommended that the Uniform Code be amended to provide to the parties all of the information disclosed by arbitrators pursuant to the disclosure provision at the time when the parties are first given the arbitrators' names. The Commission stated that "[f]ull disclosure of arbitrators' backgrounds to parties at the earliest possible stage in the process should avoid unnecessary postponements of hearings and promote knowledgeable use of challenges."

Investor confidence in the selection of arbitrators should be enhanced by these new disclosure rules. These provisions should guide arbitrators in their efforts to make appropriate disclosures, and will permit disclosures to be forwarded to the parties earlier to allow time for them to make decisions with respect to challenges.

D. Appointment of Replacement Arbitrators on a Panel

The SROs have also proposed two changes with respect to their ability to appoint a replacement arbitrator on a panel when a vacancy occurs. The first of these changes concerns the ability of the director of arbitration to replace an arbitrator who becomes unavailable to serve less than eight days prior to the first hearing session. Under the existing rules, a party may refuse to go forward on the date scheduled for the hearing if he was not given the eight days' notice of the replacement arbitrator's name and background required under existing rules. Because of the hardships that the SROs believe might occur if a long-scheduled arbitration hearing were delayed due to the inability of an arbitrator to serve as arranged, SICA developed a rule that permits the director of arbitration to replace an arbitrator within eight days of a scheduled hearing.[24]

Under the proposed amendment, if after appointment and prior to the first hearing session an arbitrator resigns, dies, withdraws, is disqualified or otherwise unable to perform as an arbitrator, the director of arbitration may appoint a replacement arbitrator. The rule permits the appointment of replacement arbitrators closer than eight days to the hearing. The rule also explicitly provides that parties are entitled to receive the same disclosure regarding the background of the replacement arbitrator as they received for the initial arbitrator(s), and have the same right to request more information, and to challenge the arbitrator as provided in the rules, although within a shorter time frame.

The second change with respect to the ability to appoint replacement arbitrators occurs in situations where an arbitrator resigns, dies, withdraws, is disqualified or otherwise unable to perform as an arbitrator after the commencement of the first hearing session. Under the existing rules, if a vacancy occurs after the hearings have begun, both parties must consent either to the appointment of a replacement arbitrator to hear the rest of the case, or to continuing with the remaining arbitrator(s). Otherwise, if that consent cannot be obtained, the case must be reheard from the beginning with a full panel.

The proposed amendment [25] permits the remaining arbitrators to continue with the hearing and determination of the controversy. However, under the proposal, if a party objects, a replacement arbitrator would be appointed by the director of arbitration under the same procedures as for the replacement of an arbitrator prior to the first hearing. The rule is designed to permit parties in particular cases to make the decision that makes the most sense for their case. For example, in cases where only peripheral issues have been dealt with and relatively little progress has been made, it may make sense for parties to request a replacement arbitrator. Conversely, where the hearings have progressed significantly, or are in fact substantially completed, it would make less sense for parties to request a replacement arbitrator, who then would have to learn all that had occurred in his absence.

In the event that parties do request a replacement arbitrator, it is clear that the arbitrators have the authority to require the rehearing of part or all of the case, or to withdraw from the case, effectively requiring the appointment of another panel, as is appropriate in their judgment. With this rule change, however, a party may no longer delay the resolution of the dispute by insisting on a rehearing whenever an arbitrator unexpectedly is unable to continue in his hearing of a case. These changes should promote increased efficiency in the administration of SRO arbitrations while at the same time preserving important safeguards that provide full disclosure of arbitrator backgrounds to the parties and permit parties to request more data and exercise challenges.

E. Availability of Small Claims Procedures and the Number of Arbitrators Required to Hear a Claim

The NYSE and NASD also proposed to increase to $10,000 from $5,000 the monetary claim limit for cases to be heard under the simplified procedures developed in the Uniform Code. Under these procedures, a single arbitrator decides a case based upon the papers submitted by the parties. No oral hearing is held unless requested by the investor, or ordered by the arbitrator. This change is designed to decrease the costs of arbitration.

The proposal also would change the number of arbitrators used for large cases from five to three.[26] The NYSE stated in a letter to the Commission's staff that this proposal is the result of the Exchange's difficulty in scheduling arbitrations with five arbitrators.[27]

The NASD and AMEX proposed a technical amendment, in NASD Section 13 and AMEX Rule 621, regarding the single arbitrators used in cases administered under the simplified procedures. The amendment codifies the existing practice of appointing a public arbitrator as the single arbitrator in the case. The NYSE has confirmed that it administers its existing rule to require the appointment of a public arbitrator. The NYSE staff has indicated that it will recommend that the NYSE clarify this point through amendments to its rules this year.

The NASD has also submitted a proposal, that has not been adopted by SICA, AMEX or the NYSE, that would permit the NASD to appoint a single

[24] NYSE Rule 608, AMEX Rule 602 and NASD Section 21.

[25] NYSE Rule 611, AMEX Rule 602 and NASD Section 24. The amendments to NASD Sections 21 and 24 relating to the replacement of arbitrators were approved by the Commission on September 19, 1988 in Securities Exchange Act Release No. 26093 and published in 53 FR 37381 (September 26, 1988).

[26] These changes were submitted earlier to the Commission by the AMEX, and were approved on November 28, 1988 in Securities Exchange Act Release No. 26315, and published in 53 FR 48995 (December 5, 1988).

The AMEX also proposes to amend its Rule 608(e) to clarify the fact that charges under the arbitration rules imposed for requesting adjournments do not apply to cases administered under the simplified procedures. This change conforms the AMEX rule to the Uniform Code and NYSE Rule 617(b) and NASD Section 30(b).

[27] *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Sharon Lawson, Esq., Branch Chief, Division of Market Regulation, SEC, dated January 16, 1989.

arbitrator for cases administered under its regular procedures where the amount in controversy is $30,000 or less. Under proposed NASD Section 9(a), a party may, however, request in its initial filing that the NASD appoint a panel of three arbitrators. The NASD stated that its proposal was designed to reduce costs and delays in the administration of cases, while preserving the opportunity for parties to have their cases heard before a full three member panel. The Commission believes that these changes also promote efficiency in the administration of the process without reducing procedural protections for the parties.

F. Discovery

The Commission requested in the September 1987 letter that SICA adopt significant changes to the Uniform Code's discovery provisions. The Commission's letter pointed to the "need for the SROs to expand existing procedures in order to provide both for the resolution of discovery disputes by [an arbitrator] prior to the hearing and for prehearing conferences and preliminary hearings for cases that are sufficiently complex to warrant such procedures." The letter also called for the Uniform Code to provide parties the ability to seek the deposition of witnesses in appropriate cases.

Under the existing rules, parties have been enacted to exchange documents informally and voluntarily. Nevertheless, the Commission's letter points out, parties sometimes "refuse to turn over documents that are, in their view, privileged or irrelevant. Customer complaints and other documents evidencing supervision or lack of supervision of a registered representative, which are in the sole possession of the industry party and are often relevant to a complainant's case, should be turned over in a timely fashion." Parties may also request documents pursuant to subpoena under the existing rules, but these do not have to be produced until the day of the hearing.

The Commission's letter stated that it did not believe that existing rules provided sufficient time for a party to prepare for a hearing. The letter also pointed out that the risks to parties resisting production were inadequate to promote compliance with the rules. "The practical problem under the Uniform Code [has been] that the requestor does not know whether, on the day of the hearing, he is going to argue over discovery matters only or whether the arbitrators will proceed to resolve the case on the merits." The discovery rule proposed in these filings meets the concerns raised in our September 1987 letter.

The discovery rule developed by SICA expands party access to prehearing discovery and provides specific time frames for parties to request information from parties and for responding to such an information request. The rule also establishes a mechanism for prehearing conferences and for arbitrator involvement in prehearing matters where needed. The SROs also have explicitly recognized the appropriateness of depositions in particular circumstances. Under the proposed rule changes, arbitrators may order depositions when appropriate. More specifically, the rule states that an arbitrator in a prehearing conference may issue any "ruling which will expedite the arbitration proceeding or is necessary to permit any party to develop fully its case." [28]

Proposed NYSE Rule 619(a) [29] continues the policy established under existing rules for parties to cooperate to the fullest extent possible in the voluntary exchange of documents and information. In the event that voluntary exchanges are not sufficient, the rule establishes a clear framework for document production and information requests.

Proposed NYSE Rule 619(b) provides that a party may serve a written request for information or documents twenty days after service of the claim or upon the filing of the answer, whichever is earlier. All parties are to receive copies of the request, and parties are required to endeavor to work out disputes regarding the request between themselves before an objection to the request is filed. Unless the requesting party allows more time, information requests must either be satisfied or objected to within thirty calendar days from the date of service. The party who made an information request has ten days from receipt of the objection to respond to the objection.

Under the proposal, a party whose information request has not been satisfied may request in writing that the director of arbitration refer the matter to a prehearing conference. Parties may also find that there are other matters in addition to unresolved information requests that require the assistance of a prehearing conference. NYSE Rule 619(d) provides that the director of arbitration may appoint someone to preside over the prehearing conference. The prehearing conferences could be held either in person or by telephone conference call, and are designed to help the parties to reach agreement on such matters as the exchange of information, exchange or production of documents, identification of witnesses, identification and exchange of hearing documents, stipulations of fact, identification and briefing of contested issues, and any other matter which will expedite the arbitration proceedings.

When a prehearing conference is unable to resolve any of these issues, NYSE Rule 619(e) provides for the director of arbitration to appoint a single arbitrator to decide the issues outstanding. In its filing, the NYSE stated that the rule allows the arbitrator to issue subpoenas, direct appearances of witnesses, direct the production of documents and depositions, and set deadlines and issue any other ruling which will expedite the hearing and permit any party to develop fully its case. The AMEX and NASD have amended their filings to provide that the single arbitrator appointed to decide prehearing matters would be a public arbitrator in those cases where public customers have requested a majority of public arbitrators for their panel. Staff at the NYSE has confirmed that it will recommend that its governing board adopt this amendment to its rules this year.

Other amendments to the prehearing provisions require parties to serve on one another at least ten days prior to the first hearing copies of documents in their possession that they intend to present at the hearing and identify witnesses they intend to present at the hearing. Under proposed NYSE Rule 619(c), arbitrators may exclude from the arbitration, documents not exchanged or witnesses not identified at that time. The provision does not extend to documents or witnesses that parties may use for cross-examination or

[28] In its explanation of this provision of the discovery rule, the NYSE stated that the arbitrator appointed to resolve discovery disputes "may issue subpoenas, direct appearances of witnesses, direct the production of documents and *depositions*, and set deadlines and issue any other ruling which will expedite the hearing and permit any party to develop fully its case." (emphasis added) In addition, the training manual for arbitrators developed by the NASD, AMEX, NYSE and other members of SICA specifically contemplates, at page 8, the ability of arbitrators to order depositions. Accordingly, we understand the language in all of the SRO rule filings included within this approval order to be broad enough to encompass the ability of a single arbitrator or panel of arbitrators to exercise their discretion to order depositions. Since arbitrators' jurisdiction is limited, the ability to enforce arbitrators orders for depositions of non-parties or of persons not affiliated with a member of the sponsoring SRO may depend upon whether relevant arbitration law provides for depositions in aid of arbitration.

[29] AMEX Rule 607 and NASD Section 32 address the discovery issues addressed in NYSE Rule 619.

rebuttal.[30] In addition, the SROs are proposing to amend their rules regarding subpoenas. In NYSE Rule 619(f), the NYSE proposes to require parties to serve copies of all subpoenas on all parties.[31]

Public Citizen, PELA, and SIA, Shearson and Jeffrey Bauer, Esq. ("Bauer") [32] commented on the proposed amendments to the prehearing provisions. Public Citizen expressed support for the proposals but stated its view that the proposals do not go far enough to provide investors with adequate discovery.[33] Public Citizen and PELA commented that restrictive discovery favors the industry over investors in light of their view that broker-dealers are more likely to have documents and other information necessary to prove a case against the firm, and the fact that a claimant has the burden of proof.[34] PELA commented that parties should have a right to depositions. Public Citizen suggested that it would be reasonable for parties to be able to have one or two depositions in a case. In effect, Public Citizen called for parties to have access to depositions where "necessary to develop [one's] case, and [where one] cannot obtain equivalent information from documents alone * * *"

The SIA stated that it does not object to arbitrators ordering the depositions of non-party witnesses who are unable to attend the hearing. The SIA expressed concern that depositions not be used to delay the proceedings, but stated that the proposed rule is sufficiently flexible to permit arbitrators to order depositions to allow parties to develop fully their cases.[35] Shearson supported the "strengthening of the discovery process." Shearson stated that the proposed rules will "further enhance investor confidence in the system" and do not "attempt to incorporate excessive litigation procedures and inordinate delays into" the arbitration process.

The Commission believes that the SRO discovery rule proposals should increase the efficiency of arbitration proceedings and provide substantially greater protections for public participants. Provisions requiring parties to notify one another of subpoenas and of witness and document lists all move away from surprise at the hearings and towards the goal of reaching fair and accurate resolutions of disputes. We believe that the timetables imposed in these rules set necessary discipline to preserve the speedy nature of arbitration, properly provide impetus for the parties to make initial efforts to work out discovery disputes and, accordingly, are in the public interest.

The language in the rule providing for the ability of an arbitrator acting as a single arbitrator to issue any "ruling which will expedite the arbitration proceeding or is necessary to permit any party to develop fully its case" substantially meets the concerns expressed by Public Citizen regarding the ability of investors to obtain depositions. The NYSE's explicit recognition that this provision includes the ability of arbitrators to order depositions, the new training manual developed by SICA, and the comment of the SIA that the rule as now drafted permits the arbitrators the discretion to order a deposition where a party can demonstrate to the arbitrators that a deposition is necessary to develop a case all support this view.[36]

The concern over excessive use of depositions is not frivolous. This concern should not be permitted, however, to avoid the proper use of depositions. The Commission's approval of this portion of the discovery rule is based on our clear understanding that depositions will now be available as a matter of routine to parties in appropriate cases. This rule grants parties access to depositions to preserve the testimony of ill or dying witnesses, or of persons who are unable or unwilling to travel long distances for a hearing, as well as to expedite large or complex cases, and in other situations deemed appropriate by the arbitrators. These rules make an appropriate choice in our view, by leaving to the arbitrators' judgment the need for depositions and other discovery. SICA and the individual SROs can evaluate the implementation of these rules, and to the extent necessary, expand discovery available as of right or impose sanctions for the failure to comply with time frames established under the new procedures. In that connection, we expect the SROs to monitor the use of depositions in arbitrations administered under their auspices, and to track arbitrators' action on requests for depositions.

The Commission believes that the rule proposals promote the purposes of the Act in aiding investors to discover the documents and other information they need to prove their cases. If experience

[30] The NYSE proposes to delete the provisions of NYSE Rule 638, which paralleled this provision in certain respects.

[31] The AMEX and NASD have placed the provisions dealing with subpoenas and the power of arbitrators to direct appearances and production of documents in separate rules consistent with the Uniform Code. (AMEX Rules 610 and 611, and NASD Section 33) The NYSE proposal incorporates these provisions into its discovery rule. There is no substantive difference between the proposals.

[32] *See* letter from Jeffrey Bauer, Esq. to Howard Kramer, Assistant Director, SEC, dated February 10, 1989. Bauer is a securities and commodities attorney.

[33] Public Citizen also questioned whether the rules on discovery apply to small claims proceedings (up to $10,000) administered under simplified procedures, because such cases may be conducted without an oral hearing. NYSE Rule 601(1), AMEX Rule 621(1) and NASD Section 13(1) make it clear that unless otherwise provided, the general arbitration rules apply to all cases, under both the simplified and regular procedures, and, accordingly, the discovery rules apply to the simplified procedures, without regard as to whether there is an oral hearing or simply a hearing on the papers.

[34] Bauer expressed the concern that the discovery provisions (as well as other provisions that contain time frames, such as those dealing with the submission of pleadings) do not contain specific sanctions for failure to meet time frames. He commented that arbitrators ought to have the ability to assess fines or costs against parties who do not meet the time frames in the rules.

[35] The SIA also raises a question concerning the effect of the inclusion in NYSE Rule 619, entitled GENERAL PROVISION GOVERNING PRE-HEARING PROCEEDING, of the provision of former NYSE Rule 620 regarding the ability of arbitrators to direct the appearance of persons associated with a member or the production of records in the possession or control of such persons. The SIA exprssed concern that the repositioning of the rule might have the effect of granting the single arbitrator assigned to resolve prehearing issues the additional ability to require industry personnel to appear before the single arbitrator prior to the hearing. Arbitrators have that authority under both versions of the rule.

There is nothing in either the Uniform Code or the NYSE's rule that would preclude an arbitrator from ordering the appearance of an employee of an SRO member prior to the initial hearing on the merits. It is appropriate that arbitrators have this flexibility under the rules. Both the AMEX and the NASD retained their provisions regarding the ability of arbitrators to direct appearances of persons and documents in separate rules, as does the Uniform Code. In the Commission's view, neither placement affects the meaning of the provision, and the language of the balance of the prehearing provisons makes it clear that an arbitrator acting as a single arbitrator under the rule may direct appearances of witnesses and the production of documents. Likewise, the NYSE's placement of this provision does not restrict the ability of the full arbitration panel to order the appearance of witnesses or production of documents at the hearing, notwithstanding the caption for the rule.

[36] There are differences in the text of the NASD rule concerning the ability of a single arbitrator to issue orders before a hearing from the text of the NYSE and AMEX rules. The NASD has not yet amended its rule to include the language "or is necessary to permit any party to develop fully its case." In a letter from Frank J. Wilson, Executive Vice President and General Counsel, NASD, to Catherine McGuire, Special Assistant to the Director, SEC dated April 18, 1989, the NASD stated that before it can conform its rule to the NYSE and AMEX rules, this language must be considered and approved by the NASD National Arbitration Committee and Board of Governors. In the interim, there should be no negative inference from this omission in the NASD's rule. In a letter from Frank J. Wilson to Catherine McGuire, Special Assistant to the Director, SEC dated April 19, 1989, the NASD acknowledged that arbitrators have authority under various statutes to exercise the discretion to order depositions of persons who are unable or unwilling to attend hearings.

with these rules suggests that arbitrators need additional authority to manage these proceedings, we are confident that SICA and the SROs will move to adopt them.

G. Preservation of a Record

NYSE Rule 623 would codify a requirement that a verbatim record by stenographic reporter or tape recording be maintained.[37] The rule further provides that if a party to a proceeding elects to have the record transcribed, the cost of such transcription shall be borne by that party unless the arbitrator(s) direct otherwise. If a record is transcribed at the request of a party, the rule requires that a copy shall be provided to the arbitrators.

In its September 10, 1987 letter, the Commission requested that SRO arbitration departments amend their rules to assure that records of arbitration proceedings are made and preserved. These records are necessary for courts to use in conjunction with any review of the proceedings they may make. The September letter suggested that records be made either with high quality tape recordings, or by engaging a court reporter to record testimony, which can later be transcribed on request. The Commission believes that the SRO proposals would assure the preservation of a record of each arbitration proceeding and therefore facilitate an appropriate court review.

H. Content and Public Availability of Arbitration Awards

The SROs' proposed rule for arbitration awards expands both the content and public availability of arbitration awards. Proposed NYSE Rule 627 provides that awards shall contain the names of the parties, a summary of the issues in controversy, the damages and/or other relief requested, the damages and/or other relief awarded, a statement of any other issues resolved, the names of the arbitrators and the signatures of the arbitrators concurring in the award.[38] The awards, including any written opinion voluntarily prepared by the arbitrators, are to be made public, except that the names of customer parties to the arbitration will be excluded if the customer parties request in writing that their names not be included on the public version of the award.[39]

The Commission requested such a rule in its September 1987 letter. Prior to the proposals made in this filing, the only information available to the public regarding SRO arbitration cases was the percentage of investors that received some portion of the amount they claimed against their broker-dealer. No data has been available with respect to particular arbitrators' awards. The proposal developed by SICA affords substantially more public access to the results of this process of dispute resolution.

Six of the commenters, Public Citizen, PELA, the SIA, Shearson, Richard Ryder, Esq. ("Ryder") [40] and Bauer, commented on the proposals for arbitration awards. Public Citizen and PELA called for the awards to include written decisions that include the arbitrators' reasons for their awards. Public Citizen commented that the verbatim records of the hearings are insufficient for a court to apply the "manifest disregard" standard [41] in the review of an arbitration award, and that a court must know arbitrators' reason in order to apply the standard. In this respect, Public Citizen expressed its preference for the traditional, judicial adherence to precedent over the more *ad hoc* factual determinations it stated were contemplated in these arbitration proposals. Public Citizen also commented that reservations expressed by SICA in its response [42] to the Commission's September 10, 1987 letter with respect to the ability of arbitrators to capture in an opinion the consensus process of arbitrators, were strained, and in its opinion were directed at concerns that flaws in the decisionmaking process would be exposed to challenge in the courts if arbitrators' rationales were known.

PELA stated that legal issues are often dispositive in employment cases between broker-dealers and registered representatives, and that these issues differ from state to state. Therefore, PELA commented, written opinions would be necessary in order to make decisions about whether to appeal arbitral awards.[43]

After careful consideration of whether awards ought to include reasons for arbitrators' awards, as is advocated by Public Citizen and PELA in their comment letters, we have concluded that it would not be appropriate at this time to require the inclusion of written opinions in awards.

This rule change already represents a significant movement in the explication of the arbitral process. We believe that it would be in the public interest to allow the SROs and parties a period of time to adjust to this rule, and to await any independent development on the part of the arbitrators themselves to develop written opinions. In the labor area, arbitrators have voluntarily developed a practice of writing opinions in order to help themselves understand developments in the labor arena.[44] The opinions were not mandated and were not developed to enable courts to review arbitral decisions.[45]

We also believe that there is merit in the arguments proffered by SICA with respect to the process of consensus that often may precede the reaching of a decision. Arbitrators may ultimately reach agreement on an award, a dollar amount, without ever reaching agreement on the reasons for the award. Finally, the Commission is concerned that imposing a mandatory requirement

[37] AMEX Rule 614 and NASD Section 37.

[38] AMEX Rule 618 and NASD Section 41.

[39] In the NASD's version of the award rule, Section 41 of its Code of Arbitration procedure, investors do not have the option of excluding their names from the public version of the award. In addition, the NASD's proposal would exclude the arbitrators' names from the public version of the awards. Instead, the NASD proposes to make available upon request to parties in a particular arbitration matter, full copies of all awards rendered by the arbitrators chosen to decide their case. The NASD proposal also requires parties to request the proposed arbitrators' previous awards within three days of having been notified of the persons to serve on the panel.

[40] *See* letter from Richard Ryder, Esq. to Jonathan G. Katz, Secretary, SEC, dated February 14, 1989. Ryder is the publisher of a newsletter on securities and commodities arbitration.

[41] *See, Merrill Lynch, Pierce, Fenner & Smith* v. *Bobker*, 808 F.2d 930 (2d Cir. 1987).

[42] *See* letter from the Securities Industry Conference on Arbitration to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated December 14, 1987.

[43] PELA also commented that arbitration panels may have no lawyers or only defense lawyers and that "[i]n many cases, arbitration counsel (actually an employee of the NASD) told the arbitrators what the law is. This is unacceptable and fundamentally unfair." The letter further commented that legal advice by SRO staff, including training materials, should be on the record. It stated "[l]itigants simply have the right to know what the arbitrators are told by outsiders about the law that is to be applied." Although this comment does not directly address any of the rule proposals before the Commission, the conduct described by PELA, if it actually occurs, would be unfair, and unacceptable in SRO arbitration. The SROs have assured the Commission that SRO staff is not permitted to advise abritrators on the law. Further, all training materials are available to the public.

[44] *See, e.g.*, Jennings and Martin, The Role of Prior Arbitration Awards in Arbitral Decisions, Labor Law Journal (February 1978).

[45] Even if awards contained errors of law, it is important to recall that under applicable law, a mistake of law is not currently grounds for vacating an arbitration award.

The error must have been obvious and capable of being readily and instantly perceived by the average person qualified to serve as an arbitrator. Moreover, the term "disregard" implies that the arbitrator appreciates the existence of a clearly governing legal principal but decides to pay no attention to it.

Bobker, at 933. The data already included in the awards under this proposal together with the pleadings and the verbatim record of the case ought to be sufficient in making determinations under the current manifest disregard standard.

for written opinions at this time could slow down the arbitration process and discourage many persons from participating as arbitrators. At present, we do not believe that the benefit obtained from requiring written decisions outweighs these concerns.[46]

The SIA, Ryder and Bauer expressed different concerns with respect to the SRO's proposals regarding awards and stated that various portions of the proposal are problematic, and may not be of much use to prospective parties. The SIA stated that it believes that knowledge of past awards may not be helpful to the parties in their evaluations either of particular cases or arbitrators. Because the arbitral awards are typically the product of a consensus of the views of arbitrators, the SIA argues that it is unlikely that an award for which an arbitrator voted would necessarily reflect the specific views of that arbitrator, but rather only the product of compromise between the members of the panel. The SIA further commented that these awards would be unlikely to be accurate indications of the voting records of arbitrators because cases tend to be fact intensive, and therefore each case unique. The SIA also expressed some concern over the summaries to be prepared of each case. It stated that summaries are likely to be subjective and would vary among the SROs. The SIA stated its opinion that SRO staffs would be likely to draft these, which could result in characterizations with which parties would not concur. The SIA suggested that claimants be required to supply the summaries. Shearson, in contrast, stated that the rules regarding the contents and public availability of arbitration awards will further enhance investor confidence in arbitration without excessively burdening the process.

Making awards publicly available is in our view very significant to promoting investor confidence in the arbitration system. Clearly, awards rendered by arbitrators in prior cases will not predict the vote or outcome of future cases. The awards will, however, provide greater public understanding of the arbitration process.[47] Moreover, while the Commission cannot evaluate the strategic value of information regarding past awards in which a particular arbitrator participated, we note that some of this historic information has been compiled by individual industry participants for their own cases. Investors, who are typically one time users of the arbitration system, do not have access to any such information. The Commission believes that it is preferable for information on past arbitrations to be equally available to all parties.

Ryder commented that arbitrators' names should not be available to the public. He stated that because the arbitrators are not professional arbitrators, but rather volunteers, they should not be exposed to public criticism for unpopular awards, such as, for example, a case where an industry arbitrator voted for punitive damages to be awarded against a broker-dealer or its employees. He also stated that publication of arbitrators names would be likely to encourage the media to contact arbitrators to discuss a particular case, in conflict with the general practice of arbitrators not to discuss cases on which they have served, and without the protection of arbitrators' immunity. This he believes would expose arbitrators to criticism and discourage them from serving. He further argues that this is weighed against limited insight to be gained from the review of the one or two arbitral awards typically rendered per year by an arbitrator, which may not be a probative sample. He commented that at a minimum, the Commission should approve only the NASD approach to awards, which would disclose arbitrators' names only to parties in specific cases.

The Commission believes that Ryder overemphasizes the pressure that may be brought to bear upon arbitrators whose names are made public, either by the press who seek to discuss an award or by members of the community with respect to unpopular awards. We expect that arbitrators are sufficiently competent and resolved to abide by their obligations not to discuss cases. Individual SROs have submitted different proposals regarding how widely they will disclose the names of arbitrators for particular cases. Both choices appear reasoned with proper consideration for the needs of the parties, the public and the arbitrators. As the SROs gain experience with these new procedures, one version or the other may develop as clearly preferable. We see no reason to disturb the discretion of the SROs on this point.

Ryder also questions the fairness under the rule proposals of the NYSE and AMEX of requiring the public disclosure of industry parties to an arbitration, but not of the investors' names. Resolution of disputes between investors and broker-dealers has a public as well as private purpose. It is important for the public to be aware of the number and nature of allegations against broker-dealers registered with the Commission and their employees. To the extent that individual investors choose to keep proceedings regarding their private finances shielded from public secrutiny, then the traditional notions of privacy in arbitration are not inappropriate, and should be preserved. The potential embarrassment to securities employees as a result of claims in arbitration proceedings of misconduct or error, however, is subservient to the public's need to know about these cases.

Ryder also suggests that the awards contain more information relating to the date of the arbitration filing; the city in which the hearings took place; the number and date of the hearings; the names of the attorneys who represented the parties, if any; the primary product or investment vehicle involved in the dispute; and the date the award was rendered. He stated that this information would be relatively simple to include and would better permit vendors of the information in arbitration awards to analyze the efficacy and speed of arbitral awards. He also suggests that the resulting data would be useful for case settlement, brokerage house compliance efforts, and regulatory oversight.

In response to these suggestions the SROs have amended their filings to include data he suggested, including the dates the claim was filed and the award rendered, the number and dates of hearing sessions and the location of the hearing(s). The type of investment vehicle involved is likely to be included already in the summary of the issues in controversy. The SROs have determined not to include at this time the names of the parties' counsel in the awards. The Commission does not believe that the disclosure of the parties' counsels' names would provide significant benefit to persons in the arbitration process. Accordingly, we believe that the SRO proposals in their amended form are consistent with the Act.

[46] We also anticipate, however, that SICA will soon renew its consideration of issues important to the successful administration of large and complex cases. It may be appropriate to provide for written opinions for such cases.

[47] We also disagree with the SIA's assumption that these summaries will likely be prepared by SRO staff and will become subject to criticism by the parties. Our understanding is that awards will be the responsibility of the arbitrators, and that they will represent the arbitrators' understanding of the issues in controversy. If draft awards are prepared by SRO staff, they are under the supervision of the arbitrators and subject to arbitrators' review and approval.

I. Arbitration Fees

The SROS have also clarified through these rule filings the potential fees to parties of pursuing a case through SRO arbitration. The arbitration fee proposals represent significant increases in the fees that may be assessed by the arbitrators for particular cases.

The definition of a "hearing session" has been clarified in the proposal. A hearing session under proposed NYSE Rule 629(b) [48] would be a meeting between the parties and arbitrators that lasts less than four hours. For the AMEX, which previously considered a hearing session to be a full day of hearings, the proposal increases the fees that may be assessed against a party. The NASD changed its practice with respect to the assessment of fees, from a full day to a half day, in June of 1987 resulting in a similar fee increase. This filing fulfills the NASD's obligation pursuant to Section 19(b) and Rule 19b–4 to file a rule change with the Commission in light of its change in policy.

Proposed NYSE Rule 629(d) also would raise to $200 from $100 the minimum deposit for cases where no money damages are claimed. Proposed NYSE Rule 629(h) and AMEX Rule 620(h) set a fee for prehearing sessions with an arbitrator of seventy-five percent of hearing session fees.[49] Further, proposed NYSE Rule 629(a) of the filing proposes that all parties who file claims, such as counterclaims, cross-claims and third party claims, now should be required to pay deposits. Under the existing rules, deposits are required only of original claimants. This significantly increases the potential fees that may be recovered by the SROs and assessed against a party since arbitrators may assess costs against a single party.

Proposed NYSE Rule 629(c) also clarifies that arbitrators may assess the costs of conducting a hearing against the parties as they deem appropriate. These costs include not only the fees for each session, but all other costs of conducting the hearing contemplated under the rules, such as the costs of transcribing a record, or producing witnesses or documents, and any other cost contemplated by the agreement between the parties or permitted by applicable law.

Two commenters, PELA and the SIA, wrote regarding the appropriateness of the fee increases in the proposals. PELA, without being specific, stated that the fees increases are an unfair barrier to dispute resolution. The SIA commented that the fees probably are appropriate, in light of the facts both that the SROs continue to subsidize the forum to a substantial extent and that the fees are, in its view, lower than for other arbitration forums.

The Commission believes that these arbitration fee increases are justified on the basis of the rule's deference to the ability of the arbitrators to allocate fees and forum costs fairly among the parties. None of these fees are automatically imposed on either party. The SROs also have advised the Commission that the fees collected in recent years are a relatively small portion of the cost of administering their programs.[50]

We intend to monitor the future administration of this rule closely. Costs to investors for SRO arbitration historically have been low, and must remain so. The application of these fees should not be permitted to operate in a manner that weighs too heavily on individual parties or serves as a disincentive to pursuing the redress of investors' grievances against broker-dealers or their associated persons.

We conclude that in light of the costs of administering the arbitration programs and the need for continued SRO subsidies, and the role of the arbitrators in allocating fees in each case, the fee increases appear to be reasonable and the procedure for allocating them provide for an equitable allocation consistent with Sections 6(b)(4) and 15A(b)(5).

J. Predispute Arbitration Clauses

The SROs, through the auspices of SICA, developed two rule changes designed to improve disclosure to customers in account opening agreements,[51] and to restrict the content of the arbitration clauses.[52]

The proposals would require broker-dealers that employ predispute arbitration clauses to place immediately before the clause introductory language that would inform customers that they are waiving their right to seek remedies in court, that arbitration is final, that discovery is generally more limited than in court proceedings, that the award is not required to contain factual findings and legal reasoning, and that the arbitration panel typically will include a minority of arbitrators associated with the securities industry.

The proposal requires that the disclosure language be highlighted four ways. First, large or otherwise distinguishable type must be used. Second, the disclosure language must be set out in outline form so as to be noticeable to readers. Third, a statement, also highlighted, that provides that the agreement contains a predispute arbitration clause, and where that clause is located in the contract, must be inserted into the agreement immediately preceding the signature line. Fourth, a copy of the agreement containing a predispute arbitration clause must be given to the customer, who is to acknowledge receipt of the agreement, either in the agreement itself or in a separate document.[53]

[48] AMEX Rule 620 and NASD Section 43.

[49] The fee for prehearing sessions with an arbitrator under NASD Section 43 is the same as the fee for hearing sessions.

[50] For example, the NYSE has advised us that its costs for administering its arbitration program, excluding rent allocation, for the years 1987 and 1988 were $1,967,000 and $2,693,000, respectively. It recovered $790,000 in 1987 and $1,264,000 in 1988 through the arbitrators' assessment of fees. The NASD reported that its costs for fiscal year 1986–1987 were $4,968,072 and for fiscal year 1987–1988 were $7,086,344, while it recovered in fees $402,543 in fiscal year 1986–1987 and $1,342,414 in fiscal year 1987–1988. The AMEX reported that its costs, excluding rent allocation, for 1987 and 1988 were $183,500 and $187,100, respectively, while it recovered in fees $46,760 in 1987 and $48,360 in 1988.

[51] On July 8, 1988, the Commission sent to all SROs that administer arbitration programs a letter requesting that they examine issues surrounding their members' use of predispute arbitration clauses. The letter followed a study by the Commission staff of 65 broker-dealer firms that account for approximately 90% of all customer trading accounts in the United States. Ninety-six percent of the margin accounts, 95% of the options accounts and 39% of the cash accounts at those firms at the time of the study were subject to predispute arbitration clauses. At least five of the nation's largest broker-dealers, with offices around the country, currently do not require the signing of account agreements for individual cash accounts that do not otherwise require documentation in connection with other services provided in the account, such as individual retirement accounts or trustee controlled accounts. For example, Merrill Lynch, PaineWebber, A.G. Edwards, Dean Witter, and Kidder Peabody do not require an individual to sign on account agreement for such cash accounts.

[52] NYSE Rule 637, AMEX Rule 427 and Article III, Section 21 of the NASD's Rules of Fair Practice.

[53] The version of the rule as developed by SICA includes a provision that requires that customers initial the statement advising investors that the contract contains an arbitration clause. In comments received by SROs from their members before these filings were submitted to the Commission, SRO members argued against the initialling requirement, stating that the initialling proposal would create operational difficulties (where investors had not initialled) without providing any corresponding additional investor protection. These firms also expressed concern over the legal significance of the initialling provision. None of the SROs has included the initialling provision in its submission to the Commission.

The proposal also prohibits SRO members from having agreements with customers that limit or contradict the rules of any SRO or limit the ability of a party to file any claim in arbitration or limit the ability of the arbitrators to make any award.

Four commentators, Public Citizen, PELA, the SIA and Shearson, commented on the provisions relating to the use of predispute arbitration clauses. Public Citizen welcomed the improvement to the system for notifying investors about the existence and effect of arbitration clauses, but stated that the proposed rules are inadequate for the protection of investors. Public Citizen's preferred result would be a rule flatly prohibiting broker-dealers from limiting or conditioning access to brokerage services on the signing of a predispute arbitration agreement.[54] Accordingly, Public Citizen comments that, at a minimum, investors should receive notice when presented with a predispute arbitration clause that they are receiving nothing in return for signing the arbitration agreement. Public Citizen reasons that as public customers already have the right under SRO rules to demand that their broker-dealers and registered representatives arbitrate any dispute that may arise, the arbitration clause creates obligations only for the customers. Consequently, Public Citizen states that SICA's initialling provision [55] should be adopted by the SROs in order to assure "that [public customers] at least [are] aware of the fact that they are agreeing to such a one-sided arrangement, and expressly signal their approval of it." Public Citizen also adds that consideration, in the form of discounted commission rates, should accompany any agreement to arbitrate.

Both the SIA and Shearson endorsed the concept of disclosure regarding the arbitration clauses contained in the proposals. The SIA commented that a disclosure approach is appropriate with respect to the clauses, while additional choice would presume that there was something wrong with arbitration, counter to the Federal Arbitration Act.[56]

The disclosure provisions set out in the new rule address many of the concerns regarding customer notice and choice that have been considered over recent years in open Commission meetings, the courts, and in hearings before the House Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce. All new arbitration agreements will be required to contain clear and highlighted disclosures alerting investors to the meaning of the arbitration contracts they are signing. This, in turn, we anticipate should promote more knowledgeable acquiescence or rejection by customers of arbitration provisions. The combined effect of the newly mandated disclosures and the notice immediately prior to the signature line, advising investors of the existence and location of the arbitration clause, will sufficiently focus any reader of the customer agreement to the arbitration provisions.

In that connection, we are unable to conclude that the marginal benefits to investors of mandating that there be a separate initialling of the provision pointing to the existence of the arbitration clause, on top of the multiple disclosures already being mandated warrant overruling SRO judgment as to the costs and operational burdens on members of such a requirement.

The Commission believes that the new provision in the rule prohibiting firms from including in their agreements any condition which limits or contradicts the rule of any SRO [57] or limits the ability of a party to file any claim in arbitration or limits the ability of the arbitrators to make any award benefits investors. This provision makes clear that the use of arbitration for the resolution of investor/broker-dealer disputes represents solely a choice of arbitration as a means of dispute resolution. Agreements cannot be used to curtail any rights that a party may otherwise have had in a judicial forum. If punitive damages or attorneys fees would be available under applicable law, then the agreement cannot limit parties' rights to request them, nor arbitrators' rights to award them. The agreements may not be used to shorten applicable statutes of limitation, restrict the situs of an arbitration hearing contrary to SRO rules, nor to limit SRO forums otherwise available to parties.

The Commission has concluded that approval of this rule, which does not include provisions mandating customer choice with respect to the signing of arbitration clauses, is consistent with the Act. Under the circumstances presented, the Commission is reluctant to dictate the terms of a fully disclosed agreement between a broker-dealer and a customer. Investors currently have access to basic brokerage services without agreeing to pursue any future disputes through arbitration, rather than through the courts. This is so because a number of broker-dealers, including several large full-service broker-dealers in the country, do not require the signing of account agreements for cash accounts.[58] The Commission recognizes that investors do not have such access with respect to margin and options accounts, but observes that with respect to margin accounts, the firms' separate lending relationship with the customer may increase the desirability of agreeing in advance that disputes will be resolved through arbitration. Moreover, the Commission believes that the improved disclosure provided in the rules will effectively alert investors as to the consequences of signing predispute arbitration clauses. To the extent that a class of investors emerge who object to predispute arbitration agreements, the Commission is hopeful that competitive forces will result in some firms offering margin or options accounts without such agreements. Additionally, pricing strategies may arise that provide for different rates to be charged to customers who do not agree to predispute arbitration provisions. The Commission, however, will carefully

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[54] PELA also called for a prohibition of mandatory arbitration. Its letter is principally directed at broker-dealer/employee cases and thus addresses issues different than those being considered by the Commission in these proposals. PELA considers the amendments represented in these filings, without greater employee/investor choice, and without procedures more like the courts, to be merely cosmetic.

[55] *See* footnote 53.

[56] Public Citizen also commented that the SROs should submit a rule establishing procedures for class action litigation and joinder provisions. Public Citizen suggests that such procedures would permit parties to resolve collectively "repeated patterns of statutory violations that simply are not worth individual investors time and resources to pursue." In testimony on July 12, 1988 before the House Subcommittee on Telecommunications and Finance of the House Committee on Energy and Commerce, SEC Chairman David Ruder addressed the need for the SROs to consider special procedures, or the declination of jurisdiction over class action litigation.

The SROs' arbitration rules already include provisions allowing for the joinder of claims. The SROs are improving the guidance provided to arbitrators with respect to their existing ability under the arbitration rules to refer certain cases back to the courts. The arbitration agreements of the parties include the obligation to abide by the arbitration rules, which provide that arbitrators may refer parties to their remedies at law, and that SROs may decline to accept jurisdiction over a particular case.

Although no SRO rule has been submitted, SICA is considering a policy whereby all SROs will decline jurisdiction over class action litigation unless the class certification and representation issues have first been resolved by a court of competent jurisdiction. At that time, under the SROs' existing rules, both the SROs and the arbitrators for a particular case may determine whether the facilities of the SRO are adequate to handle the litigation, or whether parties should be referred to their remedies at law.

[57] This part of the proposed rule change is a clear statement of existing law. *See generally*, sections 6(b), 15A(b), 19(g) and 29 of the Act, and NYSE Arbitration Rule 600(a), Article VIII, Sections 1 & 2 of the AMEX Constitution, and section 12(a) of the NASD's Code of Arbitration Procedure.

[58] *See* footnote 51 *supra*.

monitor the effectiveness of the SRO disclosure provisions as well as any increased usage of predispute arbitration agreements for cash account customers.

IV. Conclusion

The Commission welcomes the changes in SRO arbitration heralded by these proposals, and the cooperative effort that produced them. These rules represent several years of effort by SICA. They represent the promise of the SROs to maintain fair and efficient forums for the arbitration of disputes between members and investors. The Commission believes that the proposed rules appropriately balance the need to strengthen investor confidence in the arbitration systems at the SROs, both by improving the procedures for administering the arbitrations and by creating clear obligations regarding the use by SRO members of predispute arbitration clauses, with the need to maintain arbitration as a form of dispute resolution that provides for equitable and efficient administration of justice.[59]

In particular, the rule changes affecting the classification of arbitrators, arbitrator disclosure, discovery, the preservation of a record, the form and public availability of awards, and guidelines for the use of predispute arbitration clauses dynamically advance the public interest in SRO arbitration. Likewise, the SROs' initiatives with respect to the handling of pleadings, appointments of replacement arbitrators, the use of small claims procedures, and the number of arbitrators should improve the efficiency and speed of arbitration, maintaining those bargained for qualities of traditional arbitration. Because these rules will aid in the just resolution of disputes between investors and broker-dealers, we conclude that these rules are designed to prevent fraudulent and manipulative practices, promote just and equitable principles of trade and in general, protect investors and the public interest consistent with sections 6(b)(5) and 15A(b)(6). The fee increases represented by these changes appear to be reasonable and provide for an equitable allocation of fees among SRO members and investors using the arbitration facilities consistent with sections 6(b)(4) and 15A(b)(5).

Accordingly, the Commission finds that the proposals submitted by the NYSE, NASD and AMEX are consistent with the requirements of the Act, specifically sections 6(b) (4) and (5) and 15A(b) (5) and (6), which require that national securities exchanges and registered securities associations have rules designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, provide for an equitable allocation of fees, and, in general, protect investors and the public interest.[60]

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above mentioned proposed rule changes be, and hereby are, approved.[61]

By the Commission.

Jonathan G. Katz,

Secretary.

Dated: May 10, 1989.

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[59] Public Citizen also suggested in its July 15, 1988 letter that the Commission should have used its authority uder section 19(c) of the Act [15 U.S.C. 78s(c)] to institute the changes to the SROs' arbitration rules, rather than by recommending changes as was done in our September 10, 1987 letter. The September 1987 letter was not, and should not be viewed as, a formal invocation of Commission rulemaking. As the Commission staff stated in its reply to Public Citizen, the letter was the result of the staff's review of SRO arbitration pursuant to the Commission's responsibilities under sections 17 and 19 of the Act [15 U.S.C. 78q and 78s]. (*See* letter from Catherine McGuire, Special Assistant to the Director, SEC, to Eric R. Glitzenstein and Alan B. Morrison, Public Citizen, dated January 27, 1989.) Moreover, the September 1987 letter identified areas where the Commission believed that improvements were needed, but did not itself make specific rule proposals.

Open and continuous dialogue with the SROs on all matters, including the need to consider regulatory changes, is essential to the working of the scheme of self-regulation established by Congress. This process has included significant public dialogue, and all commenters' views, including those expressed by Public Citizen, have been considered in the context of these rule filings pursuant to Rule 18b-4.

[60] The Commission finds that there is good cause to approve the proposed amendment to Article III, section 21 of the NASD's Rules of Fair Practice prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register**. The NASD published a substantially similar draft of this rule for its members' comment on November 1, 1988. NASD members, in a vote concluding on April 3, 1989, voted 1,411 in favor of the proposed rule, and 237 for disapproval. In addition, the NYSE's and AMEX's versions of the same rule were published for public comment in the **Federal Register** on January 26, 1989, providing the public with ample opportunity to comment on the proposed rule change.

[61] The proposed rule changes to NYSE Rules 607, 608, 610, 611, 619, 623 and 627; AMEX Rules 602, 603, 607, 608, 610, 614, 618, 621 and 622; and NASD Sections 21, 23, 32, 37, 41 and 45 are effective upon approval. The proposed rule changes to NYSE Rules 601, 612 and 629; AMEX Rules 606 and 620; and NASD Sections 9, 13, 19, 25, and 43 are effective only for cases filed with the SROs after this approval; The proposed rule change to NYSE Rule 637, AMEX Rule 427 and Article III, Section 21 of the NASD's Rules of Fair Practice will become effective September 13, 1989.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Incorporated

May 10, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Environmental Systems Corporation
Common Stock, $.01 Par Value (File No. 7-4513)
Cooper Tire & Rubber Company
Common Stock, $1.00 Par Value (File No. 7-4514)
Windmere Corporation
Common Stock, $.10 Par Value (File No. 7-4515)
Service Master, L.P.
Units of Limited Partnership (File No. 7-4516)
Sun Electric Corporation
Common Stock, $1.00 Par Value (File No. 7-4517)
Incstar Corporation
Common Stock, $.01 Par Value (File No. 7-4518)
Dexter Corporation
Common Stock, $1.00 Par Value (File No. 7-4519)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 1, 1989, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection for investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-11724 Filed 5-15-89 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

May 10, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

A.T. & E. Corporation
Common Stck, $0.01 Par Value (File No. 7-4507)
Blockbuster Entertainment Corp.
Common Stock, $.10 Par Value (File No. 7-4508)
Chieftain International, Inc.
Common Shares, No Par Value (File No. 7-4509)
Soo Line Corporation
Common Stock, $1 Par Value (File No. 7-4510)
Amcast Industries Corp.
Common Stock, No Par Value (File No. 7-4511)
Collins Industries, Inc.
Common Stock, $0.10 Par Value (File No. 7-4512)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 1, 1989, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-11725 Filed 5-15-89; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-9542]

Application to Withdraw From Listing Techknits, Inc., Units—and its Components Securities Consisting of Common Stock, $.001 Par Value; Class A Warrant to Purchase Share of Common Stock, $.001 Par Value, Class B Warrant to Purchase Share of Preferred Stock, $.001 Par Value

May 9, 1989.

Techknits, Inc. ("Company"), has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Philadelphia Stock Exchange ("PHLX").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

On February 28, 1989 there were 6,300,000 shares of Common Stock outstanding and no shares of Preferred Stock outstanding. There were also, 2,300,000 Class A Warrants and 2,300,000 Class B Warrants. The Company has determined that, because of the extremely small trading in the Units and components thereof on the PHLX, as compared to trading of Units and the Company thereof on NASDAQ, the cost of continuing to list the Units and the components thereof on the PHLX will be much higher than can be justified.

Any interested person may, on or before May 31, 1989, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-11630 Filed 5-15-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. 46284; Notice No. 89-4]

Intelligent Vehicle-Highway Systems (IVHS) Technology; Availability of Discussion Paper and Request for Comments

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Request for comments; notice of availability of discussion paper.

SUMMARY: The Conference Report on the FY 1989 Department of Transportation Appropriations Act directs the Secretary of Transportation to report to Congress by July 1, 1989, on Intelligent Vehicle-Highway Systems (IVHS) assessing European, Japanese, and U.S. advanced vehicle-highway technology research and development initiatives. The report will analyze potential impacts of foreign programs on U.S. highway users, vehicle manufacturers, and related industries and make appropriate legislative and/or programmatic recommendations. In conducting this study, the Department is directed to consult with state and local governments, private sector transportation groups, and vehicle and electronics manufacturers. To assist in the preparation of the Report to Congress, the Department has prepared a discussion paper to solicit views and recommendations.

DATE: Comments should be received by June 15, 1989. Late-filed comments will be considered to the extent possible.

ADDRESS: Requests for copies of the discussion paper should be sent to IVHS Discussion Paper, P-30, Office of the Assistant Secretary for Policy and International Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590. Comments should be sent (four copies) to Docket Clerk, room 4107, Docket No. 46284, at the same address.

FOR FURTHER INFORMATION CONTACT: Thomas E. Marchessault, P-30, at the above address; telephone: 202/366-5412.

SUPPLEMENTARY INFORMATION: The Department has prepared a Discussion Paper on Intelligent Vehicle-Highway Systems (IVHS) to solicit views and recommendations.

The Discussion Paper considers the need for a national Intelligent Vehicle-Highway Systems (IVHS) program in view of the fact that serious urban traffic congestion has been creating the need for traffic operations techniques and systems that will substantially increase highway capacity and improve

traffic flow efficiently and safely. The Discussion Paper describes types of Intelligent Vehicle-Highway Systems (IVHS) and their benefits; reviews existing European, Japanese and U.S. Programs; weighs possible impacts of foreign IVHS preeminence on U.S. industry and consumers; discusses goals and a possible research agenda for a potential national IVHS program; and suggests alternative organizations to develop and coordinate a national IVHS cooperative program.

Through the use of advanced computers, telecommunications, and control technology, IVHS can improve communication between drivers and traffic control centers, creating an integrated highway transportation system. Ultimately, with the assistance of IVHS, automobile travel has the potential to become safer, more time and space efficient, more energy efficient, and more environmentally benign.

Features of potential IVHS fall into four categories: (1) "Advanced traffic management systems" can be used to influence the pattern of route choice by redistributing traffic between geographic areas or between highway systems to reduce delays and accidents; (2) "Advanced driver information systems" are designed to provide additional information to the driver through navigational information and real-time traffic data allowing the driver to follow optimal routes from origin to destination; (3) "Freight and fleet control operations" would allow a central controller to communicate with its vehicles to issue instructions and keep track of route progress. Moreover, traffic signals could be controlled, giving priority to public transportation and emergency vehicles; (4) "Automated vehicle control systems" are designed to take over many driving functions, allowing more cars to travel on highways, at faster speeds, with less wasted time, and in safer condition. These "automated highways" would operate in heavily traveled intercity highways and in selected urban areas.

Comments are solicited on specific issues related to any aspect of IVHS technology and on the proposition of a national IVHS program.

Issued this 10th day of May, 1989, at Washington, DC.

Patrick V. Murphy, Jr.,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-11624 Filed 5-15-89; 8:45 am]

BILLING CODE 4910-62S-M

Federal Aviation Administration

High Density Traffic Airports; Allocation of Temporary Slots

AGENCY: Federal Aviation Administration (FAA), Department of Transportation, (DOT).

ACTION: Notice of meeting; correction.

SUMMARY: An error was discovered in a notice of meeting to allocate temporary slots at high density traffic airports on May 22, 1989. The notice was published in the **Federal Register** on May 11,1989. This action corrects that notice on page 20472, in the second column, by changing the second sentence under "Requests to Participate" to read as follows:

All U.S. carriers, including those carriers currently operating at the high density traffic airports, must notify the FAA of their intention to participate in the lottery.

FOR FURTHER INFORMATION CONTACT: Patricia Lane at (202) 267-3491.

Authority: 49 U.S.C. 1302, 1303, 1348, 1354(a), 1421(a), 1424, 2402, and 2424; 49 U.S.C. 106 (Revised Pub. L. No. 97-449, January 12, 1983).

Issued in Washington, DC on May 11, 1989.

Donald P. Byrne,

Deputy Assistant Chief Counsel.

[FR Doc. 89-11675 Filed 5-11-89; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

National Motor Carrier Advisory Committee; Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meetings.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold a meeting on June 6, 1989, in Washington, DC, at the U.S. Department of Transportation Headquarters, 400 7th Street SW., Washington, DC. The meeting will begin at 9:00 a.m. in Room 4200 and it is open to the public.

The agenda will include: a review of progress being made by the Commercial Motor Vehicle Safety Regulatory Review Panel regarding uniformity of State requirements affecting interstate motor carrier operations, the status of congressionally mandated studies on truck size and weight as well as Intelligent Vehicle-Highway Systems (IVHS), the status of various motor carrier safety regulations, the progress being made in the review of the future of the highway program, the status of the DOT drug testing program, and the status of legislation affecting the motor carrier industry. Recommendations will also be presented from the Subcommittee on Government and Taxation.

In conjunction with the full committee meeting, the Subcommittee on Government and Taxation will meet on June 5, 1989, to discuss options for achieving greater uniformity with respect to the various State tax and operating regulations which motor carriers must observe. The subcommittee meeting will begin at 1:00 p.m. in Room 4200 of the U.S. Department of Transportation Headquarters, 400 7th Street SW., Washington, DC. This subcommittee meeting is also open to the public.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph S. Toole, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HOA-1, Room 4218, 400 7th Street SW., Washington, DC 20590, (202) 366-2238, office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

Issued on May 10, 1989.

R.D. Morgan,

Executive Director, Federal Highway Administration.

[FR Doc. 89-11623 Filed 5-15-89; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: May 10, 1989.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0205.
Form Number: 5452.
Type of Review: Revision.
Title: Corporate Report of Nondividend Distributions.

Description: Form 5452 is used by corporations to report their nontaxable distributions as required by Internal Revenue Code section 6042(d)(2). The information is used by IRS to verify that the distributions are nontaxable as claimed.

Respondents: Farms, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Response/ Recordkeeping

Recordkeeping, 20 hours 49 minutes.

Learning about the law or the form, 1 hour 8 minutes.

Preparing the form, 3 hours 23 minutes.

Copying, assembling, and sending the form to IRS, 32 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping/ Reporting Burden: 25,860 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 89-11664 Filed 5-15-89; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: May 10, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt

OMB Number: 1535-0062.

Form Number: PD 2966.

Type of Review: Reinstatement.

Title: Special Bond of Indemnity to the United States of America.

Description: The form is used by the purchaser of savings bonds in a chain letter scheme to request refund of the purchase price of the bonds. Form is used to indemnify the Bureau of the Public Debt in such cases.

Respondents: Individuals or households.

Estimated Number of Respondents: 5,000.

Estimated Burden Hours Per Response: 8 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 665 hours.

Clearance Officer: Rita DeNagy (202) 447-1640, Bureau of the Public Debt, Room 137, BEP Annex, 300 13th Street, SW., Washington, DC 20239-0001.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 89-11665 Filed 5-15-89; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

[Dept. Circ. 570, 1988—Rev., Supp. No. 14]

Surety Companies Acceptable on Federal Bonds: Termination of Authority AEGON Reinsurance Company of America

Notice is hereby given that the Certificate of Authority issued by the Treasury to AEGON Reinsurance Company of America, of New York, New York, under the United States Code, Title 31, sections 9304 through 9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 53 FR 25033, July 1, 1988.

With respect to any bonds currently in force with AEGON Reinsurance Company of America, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 287-3921.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

Dated: May 9, 1989.

[FR Doc. 89-11646 Filed 5-15-89; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF VETERANS AFFAIRS

Federal Advisory Committees; Availability of Annual Reports

Under section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act) notice is hereby given that the annual reports for fiscal year 1988 for the following advisory committees in the Department of Veterans' Affairs have been issued:

Scientific Review and Evaluation Board for Health Services Research and Development

Career Development Committee

Cooperative Studies Evaluation Committee

14 Merit Review Boards

Advisory Committee on Readjustment Problems of Vietnam Veterans

Scientific Review and Evaluation Board for Rehabilitation Research and Development

Scientic Advisory Committee to the National Vietnam Veterans Readjustment Study

Each report summarizes the activities of that committee during fiscal year 1988 and is available for public inspection at two locations:

Federal Documents Section, Exchange and Gift Division, LM 632, Library of Congress, Washington, DC 20520.

Department of Veterans' Affairs, 810 Vermont Avenue NW., Washington, DC 20420, in the following rooms respectively:

Room 624—Scientific Review and Evaluation Board for Health Services Research and Development

Room 626—Career Development Committee

Room 630—Cooperative Studies Evaluation Committee

Room 634—14 Merit Review Boards

Room 860—Advisory Committee on Readjustment Problems of Vietnam Veterans

Room 938—Scientific Review and Evaluation Board for Rehabilitation Research and Development

The report of the Scientific Advisory Committee to the National Vietnam Veterans Readjustment Study is available for public inspection at the Library of Congress as well as in the Office of the Project Director, Building A, Suite A, 1521 S. Edgewood Street, Baltimore, MD.

Dated: May 9, 1989.

By direction of the Secretary.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 89-11656 Filed 5-15-89; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans' Affairs.[1]

ACTION: Notice.

The Department of Veterans' Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Ann Bickoff, Veterans Health Services and Research Administration (136E), Department of Veterans' Affairs, 810 Vermont Avenue NW., Washington, DC 20420. (202) 233–2282.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: May 4, 1989.

By direction of the Secretary:

Frank E. Lalley,

Director, Office of Information Management and Statistics.

New collection

1. Veterans Health Services and Research Administration.
2. Survey on Training in Geriatrics for Medical and other Health-Professional Schools affiliated with the Department of Veterans' Affairs.
3. VA Form 10–20886 (NR).
4. The Department of Veterans' Affairs, VHS&RA intends to survey all post-secondary educational institutions affiliated with the VA which routinely send 15 or more students annually to the VA for clinical training.
5. One-time (NR).
6. State or local governments; Non-profit institutions.
7. 350 responses.
8. 2 hours.
9. Not applicable.

[FR Doc. 89–11654 Filed 5–15–89; 8:45 am]

BILLING CODE 8320–01–M

[1] On March 15, 1989, the Veterans' Administration became the Department of Veterans' Affairs (see 54 FR 10476).

Information Collection Under OMB Review

AGENCY: Department of Veterans' Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (203C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before June 15, 1989.

Dated: May 9, 1989.

By direction of the Secretary:

Frank E. Lalley,

Director, Office of Information Management and Statistics.

Extension

1. Veterans Benefits Administration.
2. Monthly Record of Training and Wages.
3. VA Form 20–1905c.
4. The requested information on this form is used to verify the training history and to determine the continuing entitlement to benefits. The form reports the number of hours spent each month on each unit of training.
5. Monthly.
6. Individuals or households.
7. 4,800 responses.
8. ¼ hours.
9. Not applicable.

[FR Doc. 89–11655 Filed 5–15–89; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on Readjustment Problems of Vietnam Veterans; Meeting

The Department of Veterans Affairs (VA) gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on the Readjustment of Vietnam Veterans will be held June 1 through 3, 1989. The purpose of the meeting is to enable the Committee to have first hand experience of VA health care services for Vietnam veterans through review of treatment units, and discussions with VA service providers and veteran clientele. This meeting will be a field meeting primarily conducted at the Springfield, MA, and Hartford, CT, Vet Centers and the Northampton VA Medical Center. The Springfield Vet Center is located at 1985 Main Street, Springfield, Massachusetts 01103, and the Hartford Vet Center is located at 370 Market Street, Hartford, Connecticut 06120. The Northampton VA Medical Center is located at 421 North Main Street, Northampton, Massachusetts 01060–1288. The meeting on June 1 will begin at 8 a.m. and conclude at 5 p.m. The day's agenda will consist of direct observations of VA vet center programs and facilities and mental health services at the Springfield VA Outpatient Clinic. The address of the VA Outpatient Clinic is 1550 Main Street, Springfield, MA 01103. The agenda for June 1 will also include a visit to the Hartford VA Regional Office to meet with the Director and his staff to review issues of adjudication and compensation of post-traumatic stress disorder claims. The address of the VA Regional Office is 450 Main Street, Hartford, CT 06103.

The meeting on June 2 will begin at 7:30 a.m. and conclude at 5 p.m. The day's agenda will consist of direct observations of VA medical center treatment facilities to include the Post-Traumatic Stress Disorder Unit, the

Alcohol Unit, the Mental Hygiene Clinic, and General Psychiatry Wards. The second day's agenda will also consist of a stationary meeting at Northampton VAMC in conference with several VA officials regarding overall mental health services for Vietnam veterans. Participating VA officials include the Medical Center Director, the Chief of Staff, and the Chiefs of Psychiatry, Psychology, and Social Work Services. The meeting on June 3 will begin at 8 a.m. and conclude at 12 noon. The third day's agenda will consist of a committee executive meeting regarding committee deliberations, recommendations, and future work plans.

The meeting will be closed from 8 a.m. to 5 p.m. on Thursday, June 1 and from 7:30 a.m. to 5 p.m. on Friday June 2, in accordance with provisions cited in 5 U.S.C. 552b(c)(6). During this portion of the meeting, the committee will be engaging in discussions with VA mental health professionals and veterans. These discussions will disclose information of a personal nature for veteran patients which would constitute a clearly unwarranted invasion of personal privacy. The meeting on June 3 will be located at Northampton VA Medical Center in the Director's conference room, and will be open to the public to the seating capacity of the room.

Anyone having questions concerning the meeting may contact Arthur S. Blank, Jr., M.D., Director, Readjustment Counseling Service, Department of Veterans Affairs Central Office, (202) 233-3317/3303.

Dated: May 5, 1989.

By direction of the Secretary.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 89-11657 Filed 5-15-89; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 93
Tuesday, May 16, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 54 FR 19631, Monday, May 8, 1989.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (Eastern Time) Monday, May 15, 1989.

CHANGE IN THE MEETING: The meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer, Executive Secretariat, (202) 634-6748.

May 10, 1989.

Frances M. Hart,

Executive Officer, Executive Secretariat.

This Notice Issued May 10, 1989.

[FR Doc. 89-11782 Filed 5-12-89; 10:45 am]

BILLING CODE 6750-06-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 10:00 a.m. (Eastern Time) Monday, May 22, 1989.

PLACE: Clarence M. Mitchell, Jr., Conference Room, No. 200-C on the Second Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC 20507.

STATUS: Part of the Meeting will be Open to the Public and Part will be Closed to the Public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Vote(s)
2. Proposed 29 CFR Part 1614, Federal Sector Equal Employment Opportunity

Closed Session

Agency Adjudication and Determination on Federal Agency
Discrimination Complaint Appeals

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at any time for information on these meetings.) **"CONTACT PERSON FOR MORE INFORMATION:"** Frances M. Hart, Executive Officer on (202) 634-6748.

Dated: May 11, 1989.

Frances M. Hart,

Executive Officer, Executive Secretariat.

This Notice Issued May 11, 1989.

[FR Doc. 89-11783 Filed 5-12-89; 10:44 am]

BILLING CODE 6750-06-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:07 a.m. on Wednesday, May 10, 1089, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider; (1) Matters relating to the possible failure of certain insured banks; and (2) matters relating to the Corporation's assistance agreement with an insured bank.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: May 11, 1989.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 89-11828 Filed 5-12-89; 1:43 pm]

BILLING CODE 6714-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 11, 1989.

TIME AND DATE: 10:00 a.m., Wednesday, May 10, 1989.

PLACE: Room 600, 1730 K Street NW., Washington, DC

STATUS: Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

MATTERS CONSIDERED: In addition to the previously announced item, the Commission considered and acted upon the following:

2. *Green River Coal Company,* Docket No. KENT 88-152. (Issues included consideration of a petition for discretionary review.)

It was determined by a unanimous vote of Commissioners that this matter be held in closed session.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629/ (202) 566-2673 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 89-11784 Filed 5-12-89; 11:07 am]

BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, May 22, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: May 12, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-11850 Filed 5-12-89; 3:57 pm]

BILLING CODE 6210-01-M

INTERNATIONAL TRADE COMMISSION

[USITC SE-89-19]

TIME AND DATE: Tuesday, May 23, 1989 at 10:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints:
   a. Certain Recombinant Erythropoietin (D/N 1489).
   b. Certain Cellular Radiotelephones and Subassemblies and Component Parts Thereof (D/N 1503).
   c. Certain Low Friction Drawer Supports & Components Thereof & Products Containing the Same (D/N 1505).
5. Inv. Nos. 701-TA-293 and 295 (F) and 731-TA-412-419 (F) (Industrial Belts from Israel, Italy, Japan, Singapore, South Korea, Taiwan, the United Kingdom, and West Germany)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

Kenneth R. Mason,

Secretary.

May 9, 1989.

[FR Doc. 89-11869 Filed 5-12-89; 4:06 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

United States Parole Commission

Pursuant To The Government In The Sunshine Act

(Pub. L. 94-409) [5 U.S.C. Section 552b]

DATE AND TIME: Tuesday, May 30, 1989—9:30 a.m. to 2:00 p.m.

PLACE: 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 19 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey Kostbar, Case Analyst, National Appeals Board, United States Parole Commission, (301) 492-5968.

Dated: May 12, 1989.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 89-11818 Filed 5-12-89;1:22pm]

BILLING CODE 4410-01-M

DEPARTMENT OF JUSTICE

United States Parole Commission Pursuant to the Government in the Sunshine Act

(Pub. L. 94-409) [5 U.S.C. Section 552b]

DATE AND TIME: Tuesday, May 30, 1989—2:00 p.m., Eastern Standard Time.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of previous Commission meeting.
2. Reports from the Chairman, Vice Chairman, Commissioners, Legal, Case Operations, and Administrative Sections.
3. Consideration of policy on illicit drug use by parolees and prisoners.
4. Consideration of incorporating administrative caseload and modified case recording in supervision manual. (Discussion Only)
5. Interim report on Electronic Monitoring Program.
6. Consideration of expansion of eligibility criteria for Electronic Monitoring Program.
7. Consideration of proposed rule change regarding the guidelines definition of "involuntary manslaughter".
8. Consideration of proposed Commission policy for prisoners serving mixed United States Code and District of Columbia Code sentences.
9. Report of Management and Planning Staff.
10. Adoption of final rule on manufacture, sale, and fraudulent use of credit cards.
11. Adoption of special procedures for prisoners transferred to U.S. custody pursuant to prisoner transfer treaty.
12. Adoption of proposed rule change regarding interim hearings for Youth Corrections Act offenders.
13. Adoption of proposed rule change to 28 CFR 2.56 concerning the disclosure of Parole Commission Regional Office files.
14. Approval of Rules and Procedures Manual changes.

AGENCY CONTACT: Linda Wines Marble, Director, Case Operations and Program Development, United States Parole Commission (301) 492-5952.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

May 12, 1989.

[FR Doc. 89-11819 Filed 5-12-89; 1:22 pm]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of May 15, 22, 29, and June 5, 1989.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of May 15

Monday, May 15

2:00 p.m.
Briefing on Interim Report on Accident Study for Plutonium Air Transport Packages (Public Meeting)

Thursday, May 18

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. 10 CFR 61—Land Disposal of Radioactive Waste (Tentative)

Week of May 22—Tentative

Thursday, May 25

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 29—Tentative

Wednesday, May 31

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2)
2:00 p.m.
Briefing on Final Rule and Regulatory Guide for Maintenance of Nuclear Power Plants (Public Meeting)

Thursday, June 1

10:00 a.m.
Briefing by Executive Branch (Closed—Ex. 1)
2:00 p.m.
Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)
4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, June 2

9:30 a.m.
Briefing on Technical Specifications Improvement Program (Public Meeting)

Week of June 5—Tentative

Thursday, June 8

10:00 a.m.
Briefing on the Application of the Severe Accident Policy to the Lead Application for Advanced Light Water Reactors (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 492-0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

William M. Hill, Jr.,

Office of the Secretary.

May 11, 1989.

[FR Doc. 89–11838 Filed 5–12–89; 2:06 pm]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, May 17, 1989.

PLACE: Hearing Room, 1333 H Street NW., Washington, DC 20268.

STATUS: Open.

MATTERS TO BE CONSIDERED: To discuss the proposed Notice of Rulemaking in Docket No. RM89–3.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street NW., Washington, D.C. 20268–0001, Telephone (202) 789–6840.

[FR Doc. 89–11771 Filed 5–12–89; 9:27]

BILLING CODE 7715–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 15, 1989.

A closed meeting will be held on Tuesday, May 16, 1989, at 10:00 a.m. An open meeting will be held on Thursday, May 18, 1989, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 16, 1989, at 10:00 a.m., will be:

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Settlement of injunctive action.

Institution of injunction actions.

The subject matter of the open meeting scheduled for Thursday, May 18, 1989, at 10:00 a.m., will be:

Consideration of issuance of an interpretive release relating to Item 303 of Regulation S–K, Management's Discussion and Analysis of Financial Condition and Results of Operations, and certain investment company disclosures. The release would report the results of the first two phases of a continuing project undertaken by the Division of Corporation Finance and set forth relevant interpretation. For further information, please contract Howard F. Morin, Paul N. Edwards or Emanuel D. Strauss at (202) 272–3204.

At times changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Barbara Green at (202) 272–2000.

Jonathan G. Katz,

Secretary.

May 12, 1989.

[FR Doc. 89–11870 Filed 5–12–89; 4:06 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 54, No. 93
Tuesday, May 16, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF EDUCATION

34 CFR Part 280

Magnet Schools Assistance Program

Correction

In rule document 89-10876 beginning on page 19506 in the issue of Friday, May 5, 1989, make the following correction:

On page 19508, in the third column, in § 280.31(g), in the first line, after "*Commitment and capacity.*" insert "(10 points)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89N-0146]

Drug Export; M.V.C. 9+4 (Pediatric)

Correction

In notice document 89-10463 beginning on page 18700 in the issue of Tuesday, May 2, 1989, make the following corrections:

On page 18700, in the second column, in the subject heading, and in the last line of the **SUMMARY**, "(Pedriatric)" should read "(Pediatric)".

On the same page, in the third column, under **SUPPLEMENTARY INFORMATION**, in the 29th line, "(Pedriatric)" should read "(Pediatric)".

BILLING CODE 1505-01-D

federal register

Tuesday
May 16, 1989

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

Urban Development Action Grant; Implementation of Prohibitions on Use for Business Relocations; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-89-1384; FR 2500]
RIN 2506-AA86

Urban Development Action Grant; Implementation of Prohibitions on Use for Business Relocations

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing Urban Development Action Grants by revising and adding new text to the existing provisions pertaining to prohibitions on the use of Uniform Development Action Grant (UDAG) grants for business relocations. This rule (1) codifies HUD policy for administering the existing statutory and regulatory prohibition on the use of UDAG funds for speculative projects intended to facilitate the relocation of businesses from one area to another and (2) implements amendments under section 516 of the Housing and Community Development Act of 1987 which prohibit the use of UDAG funds for projects with identified intended occupants likely to facilitate the relocation or expansion of businesses from UDAG eligible jurisdictions, provides for appeal of adverse determinations, and provides for assistance for individuals adversely affected by prohibited relocations.

EFFECTIVE DATE: June 30, 1989.

FOR FURTHER INFORMATION CONTACT: Stanley Newman, Director, Office of Urban Development Action Grants, Room 7262, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-6290. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. No person may be subjected to a penalty for failing to provide the information required under this rule until the information collecting requirements have been reviewed and approved and an OMB control number has been assigned. Public reporting burden for each collection of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the preamble heading, *Other Matters*. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., Room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Background

Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5319), authorizes the Secretary of Housing and Urban Development to "make urban development action grants to cities and counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery."

Prior to the enactment of the Housing and Community Development Act of 1987, subsection (h) of section 119 provided:

> (h) No assistance may be provided under this section for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that the relocation does not significantly and adversely affect the unemployment or economic base of the area from which the industrial or commercial plant or facility is to be relocated.

The foregoing prohibition is reflected in the UDAG program regulation at 24 CFR 570.456(c), which provides:

> (c) Except as specified herein, no assistance will be provided for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that such relocation does not significantly and adversely affect the level of unemployment or the economic base of the area from which such industrial or commercial plant or facility is to be relocated. However, moves within a metropolitan area shall not be subject to this provision.

The amended section 119(h) at section 516 of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988) (1987 Act), contains provisions prohibiting assistance to projects with identified intended occupants as follows:

> (2) Projects with identified intended occupants. No assistance may be provided or utilized under this section for any project with identified intended occupants that is likely to facilitate—
>
> (A) a relocation of any operation of an industrial or commercial plant or facility or other business establishment—
>
> (i) from any city, urban county, or identifiable community described in subsection (p), that is eligible for assistance under this section; and
>
> (ii) to the city, urban county, or identifiable community described in subsection (p), in which the project is located; or
>
> (B) an expansion of any such operation that results in a reduction of any such operation in any city, county, or community described in subparagraph (A)(i).
>
> (3) Significant and adverse effect. The restrictions established in paragraph (2) shall not apply if the Secretary determines that the relocation or expansion does not significantly and adversely affect the employment or economic base of the city, county, or community from which the relocation or expansion occurs.

When the Department learned that some speculative space projects (projects in which the occupants of all or some of the space are not identified in the application for the UDAG) involved marketing of speculative space to potential relocatees of nearby areas, HUD issued a Statement of Policy concerning applications for projects containing speculative space. 50 FR 1505 (January 11, 1985). The Statement of Policy was designed to be used by UDAG applicants as a guide and advisory interpretation of section 119(h) as it applies to applications for development of speculative space. The effect of the 1987 statutory amendment generally is to retain the applicability of the previously existing provisions of section 119(h) to speculative space projects.

On May 18, 1988, the Department published proposed rules setting out HUD policy on applications for development of speculative space and implementing section 516 of the Housing and Community Development Act of 1987 as it pertains to applications for development of projects with identified intended occupants. Interested parties were given until June 17, 1988 to comment on the proposed rules. Seven responses were received. All the comments have been reviewed and their disposition is discussed below.

Section 570.456(c)(1) Applications for Projects With Speculative Space

Section 570.456(c)(1) concerns application of the business relocation prohibition to proposed projects with speculative space. It was modified by section 516 of the Housing and

Community Development Act of 1987 but the statutory modification incorporates the essential elements of the 1985 Statement of Policy. An objection was made to the metropolitan area exclusion in paragraph (c)(1) for application of the prohibition against use of UDAG funds for speculative projects intended to facilitate a relocation, on the grounds that the metropolitan area exclusion is unwarranted by statutory construction and is inconsistent with the legislative history. The metropolitan area exclusion, which is derived from the original legislative history for 1977, has been in the UDAG regulations since initially promulgated. If Congress chose to restrict or further limit the exclusion it could have done so in section 516 of the Housing and Community Development Act of 1987 when other changes were made in the prohibition against UDAG funding of business relocations, and the Department believes the thrust of the recent Congressional action and the legislative history (House Committee on Banking, Finance and Urban Affairs, H.R. 95–236) supports retention of the longstanding exclusion. To limit the exclusion to transfers within an applicant's jurisdiction ignores the legislative history, which recognized that private investment in one jurisdiction in a metropolitan area may result in loss of commercial or employment activity in another.

Several respondents expressed concern that the paragraph (c)(1)(i) presumption that a proposed speculative project is intended to facilitate a relocation may be employed as the exclusive means of applying the prohibition against UDAG funding for speculative space projects. However, no detailed alternative tests were recommended. The practice of the Department in determining whether the presumption is present (as announced in the 1985 Statement of Policy) has been to review all facts and materials submitted by applicants and parties claiming that the prohibition must be applied.

Concern was also expressed that the Department would limit its review of a pattern of job movement to the jobs of only one employer in paragraph (c)(1)(i)(A). HUD does not limit the review of patterns of job movement to the same employer. Rather, the Department considers jobs of the same class or category in determining whether a pattern is present, and HUD recognizes that a variety of fact patterns can lead to a presumption that there is an intention to facilitate a relocation. Other economic factors would be considered.

One respondent submitted that the area from which a pattern of job movement may be found to occur should not be limited to 50 miles but should be the trade area of the business to be located in the proposed speculative space project. The Department continues to believe that 50 miles contains an area adequate to fairly and reasonably measure any pattern of job movement.

The respondent also argued that under paragraph (c)(1)(i)(B) the time period for measuring the pattern should be extended to include the time period after the project is completed, since the negative effect resulting in job movement may only occur after the project is completed. The regulation is, however, intended to permit review of existing patterns which are likely to continue in order to find a presumption in regard to speculative space projects. Possible new future patterns of movement are simply too uncertain to be measured in regard to establishing the presumption of a prohibited relocation.

Another concern about the "pattern of job movement" measure was that "similar relevant factors" in paragraph (c)(1)(i)(B) are too narrow. The regulation requires review of "measurable comparisons" in considering whether the presumption applies, and the Department believes that the present language permits review of all data germane to the issue of whether a pattern of job movement will likely continue.

Several respondents expressed concern about the proper placement of the burden of proof in finding the presumption of intention to relocate, and about the applicant's right to rebut such a presumption. The argument is made that if there is a *prima facie* showing of intention to relocate the burden must shift to the applicant to prove that there will not be a relocation. However, it must be recognized that the UDAG statute is designed to assist distressed cities and that the prohibition of funding projects intended to facilitate a relocation is an exception to the larger purpose of the Act. The experience of the Department has demonstrated that parties opposing a project are quite capable of providing voluminous materials assembled to show such an intention. Where any questions concerning a possible relocation in violation of 119(h) are raised in the application or in the review of the application by the Department, all relevant data will be weighed in making any determination as to the presence of the presumption or, if present, the rebuttal of it by the applicant. The Department believes that the moving party (i.e., either the proponent or opponent, depending on who is required to submit the evidence) has the burden of proof.

As recommended by one of the respondents, the Department is modifying § 570.458(c)(14)(iv) to require that the applicant (as well as the project developer) must certify that to the best of its knowledge the requested UDAG funds will not facilitate a prohibited business relocation. This change will assist the city in focusing on the relocation funding prohibition. Where appropriate, the applicant may be required to offer evidence in support of its certification. The certification requirement will not be further expanded in the rule to require every identified intended occupant to certify also that its portion of the project does not facilitate a prohibited business relocation, because this suggested additional requirement would be burdensome in this complex area of statutory interpretation. The applicant and project developer certifications should be sufficient since they constitute the principal participating parties in the proposed project. During the application review, additional data, including certifications, may be required as the circumstances warrant.

Paragraph (c)(1)(ii) provides that the restriction against UDAG funds shall not apply if the Secretary determines that the proposed relocation does not significantly and adversely affect the employment or economic base of the area from which the facility is to be relocated and that the Secretary is not required to make such a determination. Some respondents would prefer to have the Secretary required to make the determination where a prohibited relocation is found to exist in either speculative space projects or projects with identified intended occupants. The Department believes that Congress did not intend to require the Secretary to make such a determination. Clearly, with reference to projects containing speculative space, the original provision was not amended and a similar provision (without a requirement for a determination of no significant or adverse effect) was added in paragraph (c)(2)(ii) to apply the exception to the prohibition on funding a relocation of projects with identified intended occupants. The Department has seen no evidence that persuades it that Congress intended to change the practice of the Secretary not to make determinations

that a relocation "does not significantly and adversely affect" the area from which the relocation occurs. This practice has resulted in the broadest possible application of the prohibition against funding business relocations from one area to another or from UDAG eligible jurisdictions in regard to proposed projects with identified intended occupants.

One respondent identified an inequity in regard to the thresholds for application of the prohibition against funding UDAG projects containing speculative space. An incongruity arises where the proposed facilities are sized just over the initial thresholds. The low cap caused small buildings with huge amounts of speculative space to be favored over large buildings. The initial thresholds in paragraph (c)(1)(B)(iv) have been modified to correct the inequity.

Section 570.456(c)(2) Applications for Projects With Identified Intended Occupants

Section 570.456(c)(2) concerns application of the business relocation prohibition to projects with identified intended occupants. It implements section 516 of the Housing and Community Development Act of 1987. It prohibits the UDAG funding of projects with identified intended occupants which are "likely to facilitate" business relocations.

Projects with speculative space which are "intended to facilitate" the relocation of a facility are not to be funded by UDAG, and under the 1987 Act projects with identified intended occupants which are "likely to facilitate" the relocation of any operation of a facility are not to be funded by UDAG. Under paragraph (c)(5)(iii) of the regulation the term "likely" has been defined to mean "probably or reasonably to be expected as determined by firm evidence * * *." The speculative space part of the rule does not contain a definition of "intended to facilitate". Several commenters argued that the new provision in the 1987 Act which applies to projects with identified intended occupants was adopted by Congress as a result of a controversial project which, after the award and funding of most of the UDAG, presented a serious question of compliance with the statute. The new standard, commenters asserted, was intended to place a heavier burden on the applicant and the project developer to demonstrate that there would not be a prohibited relocation. And, the argument continues, the proposed rule's definition of "likely" requires "smoking gun" evidence. The commenters read the definition to mean "absolute proof" that a relocation is actually happening.

The Department believes that it would err in requiring anything less than firm evidence, since rumors of closings or reductions often abound when no closing is planned, and even newspaper reports of proposed closings may be inaccurate. Firm evidence is not necessarily limited to information from the project developer who must certify in the application for funds that the UDAG funds will not facilitate any business relocation or explain fully where UDAG funds will facilitate a business relocation. Nor does the definition require that a relocation is actually happening for the UDAG funding to be prohibited; such an interpretation is inconsistent with "probably or likely to be expected." Parties challenging the eligibility of a proposed project certainly may rely on consultant studies, but it would be impossible for the Department to consider such studies, by themselves, as "firm evidence" when both proponents and opponents have submitted similar studies drawing opposite conclusions. The Department intends to consider all relevant evidence in determining whether a prohibited relocation is likely to be facilitated, but does not believe a change in the rule's definition of "likely" is appropriate.

An objection was made to the limitation that the prohibition applies only to moves from "any UDAG eligible jurisdiction" in paragraph (c)(2)(A), rather than from "any area" as in paragraph (c)(1) applications for speculative space projects. It is argued that non-distressed cities can be adversely affected by businesses moving from their jurisdictions. Another respondent would like to have this prohibition apply to moves from "recent UDAG projects." The choice of the locus is in the 1987 legislation, and the Department is bound by it.

Paragraph (c)(2) also excludes relocations within a metropolitan area from operation of the prohibition against UDAG funding. This exclusion is consistent with the practice of the Department over the entire history of the UDAG program and it has been applied to both proposed projects with identified intended occupants and speculative space projects as stated in paragraph 570.456(c), from its inception. As noted in our discussion of speculative space projects, there is no indication that Congress intended last year to alter a ten year-old statutory policy.

Commenters argued that using "substantial" in paragraph (c)(2)(B) to modify "reduction of any such operation" and in paragraph (c)(5)(i) to modify "number of positions" and "employment opportunities" in the rule's definition of operation violated the intent of Congress in prohibiting UDAG funding of business relocations. This modifier, the commenters claimed, in effect places the "no significant and adverse effect" determinations by the Secretary into the threshold issue of whether a prohibited relocation is present. The Department's purpose in adding "substantial" where indicated above is to avoid absurd results in applying the rule. If a project developer employs 300 people and will move to a distressed city, causing its operation in the distressed city from which it is moving to be reduced by 10 people, the Department believes that Congress did not intend to prohibit use of UDAG funds to assist in the relocation. The numbers posited in the example are more than *de minimis* but less than substantial under the circumstances. A substantiality test simply permits some weighing of the size of the reduction of the operation and the number of jobs lost and employment opportunities lost against the jobs lost and relevant employment data in the affected UDAG-eligible jurisdiction. Certainly in proposed projects where job loss or loss of employment is insubstantial, a distressed city should not be barred from receiving UDAG funds, and the issue of weighing is appropriately a threshold question. What constitutes substantial or insubstantial must be considered on an *ad hoc*, application-by-application basis. Congress has not, and the Department, based on its experience in this complex area, should not set rigid, fixed standards or numbers in the intricate process of reviewing business relocations and making threshold determinations. Use of the word "substantial" is relevant in threshold determinations of whether a prohibited relocation would likely be facilitated, whereas the relevant measure for subsequent findings is whether the relocation significantly and adversely affects the jurisdiction from which the operation or business is moving, which latter finding the Secretary is permitted to make as discussed in relation to the similar provision in paragraph (c)(1)(ii). Where the 1987 Act requires it, the Department has established in paragraph (c)(2)(ii) (A) and (B) non-exclusive criteria to be used in making "significant and adverse" determinations.

Another comment stated that the new provision giving assistance for individuals adversely affected by

prohibited relocations, as set forth in paragraph (c)(4), requires that UDAG grants be conditioned on "each identified occupant not thereafter causing any relocation." Based on its experience, the Department prefers not to rely on covenants as a means of permitting a funding where a prohibited relocation might occur; rather the goal is not to fund a prohibited relocation in the first instance by careful and complete analysis of the application and of the submissions of third parties.

The same commenter suggested that a project developer name and keep current its list of identified intended occupants up to the deadline for submitting firm financing commitments. We believe that the certification required of the project developer in § 570.458(c)(14)(iv) is continuing and where any business relocation is involved a detailed explanation would include identification of intended occupants—and more.

Finally, the responses have indicated some confusion concerning whether paragraph (c)(1) (projects with speculative space) or paragraph (c)(2) (projects with identified intended occupants) would be applied if an application contains both categories and the speculative space thresholds are met. The typical regional shopping center with identified major department stores is an example of such a project. The Department would apply paragraph (c)(2) as to the identified occupant element and, because it would be necessary to establish a presumption where the occupants are unknown, the Department also would apply paragraph (c)(1) as to the speculative space portion of the proposed project.

Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7 a.m. and 5:30 p.m. weekdays in the Office of Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 issued by the President February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned certifies that this rule would not have a significant economic impact on a substantial number of small entities because the number of affected small entities would not be substantial. The funding for the UDAG program has been reduced in recent years and the changes will have no effect on the competitive position of small entities.

Executive Order 12612, Federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies in this rule will not have significant federalism implications when implemented and, thus, are not subject to review under the Order. The subject matter of the rule is limited to matters of program administration associated with federal grants, and has no preemptive effect on state law, nor does it restrain or interfere in any manner with state or local law or policy.

Executive Order 12606, the Family. The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order.

The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Sections 570.456(c)(3) and 570.458(c)(14)(xviii) of this rule have been determined by the Department to contain collection of information requirements. Information on these requirements is produced as follows:

Respondent

4,380 × $13.00 = $56,940

Burden Estimate

Reporting requirements	No. of respondents [2]	×	No. of responses per respondent	×	Hrs	=	Annual total
Certificate	396		1		1		396
Detailed Explanation [1]	99		1		40		3,960
Appeal	24		1		1		24
Total							4,380

[1] The level of burden would vary due to differences in the proposed projects and the amount and types of information the Respondent chooses to submit.
[2] In calendar year 1988, 986 applications were received for five funding rounds. We anticipate no more than two funding rounds in 1989, one Metro and one small cities.

This rule was listed in the Department's Semiannual Agenda of Regulations published April 24, 1989 (54 FR 16708, 16735) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance number is 14.221—Urban Development Action Grants.

Lists of Subjects in 24 CFR Part 570

Community development block grants, Grant programs: housing and community development, Loan programs: housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

Accordingly, 24 CFR Part 570 is amended as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for Part 570 continues to read as follows:

Authority: Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); sec.7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Paragraph (c) of § 570.456 is revised to read as follows:

§ 570.456 Ineligible activities and limitations on eligible activities.

* * * * *

(c)(1) No assistance may be provided under this subpart for speculative

projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another. The provisions of this paragraph (c)(1) shall not apply to a relocation of any such plant or facility within a metropolitan area.

(i) HUD will presume that a proposed project which includes speculative commercial or industrial space is intended to facilitate the relocation of a plant or facility from one area to another, if it is demonstrated to HUD's satisfaction that:

(A) The proposed project is reasonably proximate (i.e., within 50 miles) to an area from which there has been a significant current pattern of movement, to areas reasonably proximate, of jobs of the category for which such space is appropriate; and

(B) There is a likelihood of continuation of the pattern, based on measurable comparisons between the area from which the movement has been occurring and the area of the proposed project in terms of tax rates, energy costs, and similar relevant factors.

(ii) The restrictions established in this paragraph (c)(1) shall not apply if the Secretary determines that the relocation does not significantly and adversely affect the employment or economic base of the area from which the industrial or commercial plant or facility is to be relocated. However, the Secretary will not be required to make a determination whether there is a significant and adverse effect. If such a determination is undertaken, the Secretary will presume that there is a significant and adverse effect where the significant pattern of job movement and the likelihood of continuation of such a pattern has been from a distressed community.

(iii) The presumptions established in accordance with this paragraph (c)(1) are rebuttable by the applicant. However, the burden of overcoming the presumptions will be on the applicant.

(iv) The presumptions established in this paragraph (c)(1) will not apply if the speculative space contained in a commercial or industrial plant or facility included in a project constitutes a lesser percentage of the total space contained in that plant or facility than the threshold amounts specified below:

Size of plant or facility	Amount of speculative space
0 to 50,000 sq. ft.	10 percent.
50,001 to 250,000 sq. ft.	5,000 sq. ft. or 8 percent, whichever is greater.
250,001 to 1,000,000 sq. ft.	20,000 sq. ft. or 5 percent, whichever is greater.
1,000,001 or more sq. ft.	50,000 sq. ft. or 3 percent, whichever is greater.

(2) Projects with identified intended occupants. No assistance may be provided or utilized under this subpart for any project with identified intended occupants that is likely to facilitate:

(i) A relocation of any operation of an industrial or commercial plant or facility or other business establishment from any UDAG eligible jurisdiction; or

(ii) An expansion of any operation of an industrial or commercial plant or facility or other business establishment that results in a substantial reduction of any such operation in any UDAG eligible jurisdiction. The provisions of this paragraph (c)(2) shall not apply to a relocation of an operation or to an expansion of an operation within a metropolitan area. The provisions of this paragraph (c)(2) shall apply only to projects that do not have speculative space, or to projects that include both identified intended occupant space and speculative space.

(iii) Significant and adverse effect. The restrictions established in this paragraph (c)(2) shall not apply if the Secretary determines that the relocation or expansion does not significantly and adversely affect the employment or economic base of the UDAG eligible jurisdiction from which the relocation or expansion occurs. However, the Secretary will not be required to make a determination whether there is a significant and adverse effect. If such a determination is undertaken, among the factors which the Secretary will consider are:

(A) Whether it is reasonable to anticipate that there will be a significant net loss of jobs in the plant or facility being abandoned; and

(B) Whether an equivalent productive use will be made of the plant or facility being abandoned by the relocating or expanding operation, thus creating no deterioration of economic base.

(3) Within 90 days following notice of intent to withhold, deny or cancel assistance under paragraph (c) (1) or (2) of this section, the applicant may appeal in writing to the Secretary the withholding, denial or cancellation of assistance. The applicant will be notified and given an opportunity within a prescribed time for an informal consultation regarding the action.

(4) Assistance for individuals adversely affected by prohibited relocations. (i) Any amount withdrawn by, recaptured by, or paid to the Secretary because of a violation (or a settlement of an alleged violation) of this section (or any regulation issued or contractual provision entered into to carry out this section) by a project with identified intended occupants will be made available by the Secretary as a grant to the UDAG eligible jurisdiction from which the operation of an industrial or commercial plant or facility or other business establishment was relocated, or in which the operation was reduced.

(ii)(A) Any amount made available under this paragraph shall be used by the grantee to assist individuals who were employed by the operation involved before the relocation or reduction and whose employment or terms of employment were adversely affected by the relocation or reduction. The assistance shall include job training, job retraining, and job placement.

(B) If any amount made available to a grantee under this paragraph (c)(4) is more than is required to provide the assistance described in paragraph (c)(4)(ii)(A) of this section, the grantee shall use the excess amount to carry out community development activities eligible under section 105(a) of the Housing and Community Development Act of 1974.

(iii)(A) The provisions of this paragraph (c)(4) shall be applicable to any amount withdrawn by, recaptured by, or paid to the Secretary under this section, including any amount withdrawn, recaptured, or paid before the effective date of this paragraph.

(B) Grants may be made under this paragraph (c)(4) only to the extent of amounts provided in appropriation Acts.

(5) For purposes of this section, the following definitions apply:

(i) "Operation" means any plant, equipment, facility, substantial number of positions, substantial employment opportunities, production capacity, or product line.

(ii) "Metropolitan area" means a metropolitan area as defined in § 570.3(p) and which consists of either a freestanding metropolitan area or a primary metropolitan statistical area where both primary and consolidated areas exist.

(iii) "Likely" means probably or reasonably to be expected, as determined by firm evidence such as resolutions of a corporation to close a plant or facility, notifications of closure to collective bargaining units, correspondence and notifications of corporate officials relative to a closure, and supportive evidence, such as newspaper articles and notices to

employees regarding closure of a plant or facility. Consultant studies and marketing studies may be submitted as supportive evidence, but by themselves are not firm evidence.

(iv) "UDAG eligible jurisdiction" means a distressed community, a Pocket of Poverty, a Pocket of Poverty community, or an identifiable community described in section 119(p) of the Housing and Community Development Act of 1974.

(6) Notwithstanding any other provision of this subpart, nothing in this subpart may be construed to permit an inference or conclusion that the policy of the urban development action grant program is to facilitate the relocation of businesses from one area to another.

3. Section 570.458(c)(14) is amended to add a new paragraph (xviii) as follows:

§ 570.458 Full Applications.

* * * * *

(c) * * *

(14) * * *

(xviii) The applicant and project developer must certify that, to the best of their knowledge, the requested UDAG funds will not facilitate any business relocation as described in § 570.456(c). If the UDAG funds will facilitate any business relocation, a detailed explanation shall be provided.

Date: May 8, 1989.

Audrey E. Scott,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 89-11615 Filed 5-15-89; 8:45 am]

BILLING CODE 4210-29-M

federal register

Tuesday
May 16, 1989

Part III

Environmental Protection Agency

40 CFR Part 22

Administrative Penalty Procedures; Interim Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 22

[FRL-3464-2]

Administrative Penalty Procedures.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule

SUMMARY: EPA is today promulgating an interim final rule establishing procedures for the administrative assessment of civil penalties under (1) section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986, Pub. L. No. 99-499, for violations of provisions specified in section 109 of CERCLA, including failing to report releases of hazardous substances, and (2) section 325 of the Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. 11001 *et seq.*, for violations of provisions specified in section 325 of EPCRA. The rule provides that the administrative assessment of CERCLA section 109 penalties and EPCRA section 325 penalties will be governed by EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and by supplemental rules relating specifically to penalty assessments under section 109 of CERCLA and section 325 of EPCRA. EPA is taking this action in response to amendments to CERCLA made by SARA, which authorize the President to assess administrative penalties for certain violations of CERCLA and which authorize the Administrator of EPA to assess administrative penalties for violations of EPCRA. The authority granted to assess administrative penalties was effective upon the date of enactment of SARA, which was October 17, 1986.

DATES: Comments on this interim final rule must be submitted on or before July 17, 1989. This interim final rule is effective on May 16, 1989, and governs all proceedings for the administrative assessment of a civil penalty under section 109 of CERCLA or section 325 of EPCRA for which an administrative complaint is filed after May 16, 1989. EPA will use this rule as guidance for conducting these proceedings prior to the date it becomes effective on an interim final basis.

ADDRESS: Persons may mail comments on this interim final rule to Sandra Connors, Office of Enforcement and Compliance Monitoring, Hazardous Waste Division (LE-134S), Room 3219L, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Persons may inspect comments at that address.

FOR FURTHER INFORMATION CONTACT: Sandra Connors, Office of Enforcement and Compliance Monitoring, Hazardous Waste Division (LE-134S), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, 202-382-3110.

SUPPLEMENTARY INFORMATION:

Statutory Background

On October 17, 1986, the Superfund Amendments and Reauthorization Act (SARA) of 1986, Pub. L. No. 99-499, was enacted. Title I of SARA amended the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.*, by revising section 109, 42 U.S.C. 9609, which authorizes the President to assess administrative penalties for violations of specified provisions of CERCLA. Title III of SARA is the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). Section 325(b) of EPCRA, 42 U.S.C. 11045(b), authorizes the Administrator of EPA to assess administrative penalties for violations of emergency notification under section 304 of EPCRA. Section 325(c) of EPCRA authorizes the Administrator of EPA to assess administrative penalties for reporting violations under sections 311, 312, 313, 322 or 323 of EPCRA. Section 325(d) of EPCRA authorizes the Administrator of EPA to assess administrative penalties for frivolous trade secret claims made in violation of section 322 of EPCRA.

Section 109 and section 325(b) established two "classes" of administrative penalties, which differ with respect to allowable procedure and maximum assessment. The provisions for Class I penalties allow for a maximum penalty of $25,000 per violation and the Respondent must be provided notice and an opportunity for hearing. The provisions for Class II penalties authorize a maximum penalty of $25,000 per day for each day during which the violation continues and a maximum penalty of $75,000 per day for each day during which the violation continues for a second or subsequent violation and are explicitly made subject to the requirements of the Administrative Procedure Act (APA), 5 U.S.C. 554, 556. Class II proceedings are similar to administrative adjudicatory proceedings employed by the Agency under other environmental statutes, which are subject to section 554 of the APA.

Sections 325 (c) and (d) of EPCRA are silent as to the type of administrative hearing procedures to be employed for the assessment of penalties under these sections. Section 325(c)(1) authorizes a maximum penalty of $25,000 per day for each day during which the violation continues and section 325(c)(2) authorizes a maximum of $10,000 per day for each day during which the violation continues. The penalties under section 325(c) may be assessed on a daily basis. Section 325(d) of EPCRA authorizes a penalty of $25,000 per frivolous trade secret claim.

Under section 109(a) of CERCLA, a Class I penalty requires only notice and opportunity for hearing. A Class II penalty under section 109(b) of CERCLA may be assessed by the President through an order issued after opportunity for a hearing on the record in accordance with section 554 of the Administrative Procedure Act (APA), 5 U.S.C. 554. The authority to assess penalties under CERCLA section 109 has been delegated to EPA (*see* Executive Order 12580 of January 23, 1987, 52 FR 2923 (January 29, 1987).

Class I and Class II civil penalties under section 109 may be assessed for (1) a violation of the emergency release notification requirements of section 103 (a) or (b); (2) a violation of section 103(d)(2) (relating to recordkeeping); (3) a violation of the requirements of section 108, the regulations issued under section 108, or with any denial or detention order under section 108 (relating to financial responsibility); (4) a violation of an order under section 122(d)(3) (relating to settlement agreements for action under section 104(b)); or (5) any failure or refusal referred to in section 122(l) (relating to violations of administrative orders, consent decrees, or agreements with federal facilities under section 120).

Under section 325(b)(2) of EPCRA, a Class II penalty is assessed and collected by the Administrator in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected under section 16 of the Toxic Substances Control Act, 15 U.S.C. 2615. Those penalties are assessed by an order issued after opportunity for a hearing on the record in accordance with section 554 of the APA. A Class I penalty under section 325(b)(1) of EPCRA requires only notice and opportunity for a hearing.

Under section 325(c)(4) of EPCRA, the Administrator may assess by administrative order any civil penalty for which a person is liable under

section 325(c). Under section 325(c)(1), a penalty of not more than $25,000 for each violation may be assessed for violations of the right-to-know reporting requirements under sections 312 or 313 of EPCRA. Under section 325(c)(2), a penalty of not more than $10,000 for each violation may be assessed for violations of section 311 or 323(b) requirements or for failure to furnish information under section 322(a)(2). For purposes of section 325(c), each day a violation continues constitutes a separate violation. Under section 325(d) of EPCRA, the Administrator may assess by administrative order a penalty of $25,000 per frivolous trade secret claim made under section 322(d)(4).

Both sections 109 and 325 authorize EPA to issue subpoenas to obtain the attendance and testimony of witnesses and the production of documents. A person subject to an order assessing a Class II penalty under section 109 may seek judicial review of the order with the appropriate United States Court of Appeals. A person subject to an order assessing a Class I penalty under section 109 or a penalty under section 325 may seek judicial review of the order with the appropriate United States District Court.

Description of Final Rule

This interim final rule applies formal APA hearing procedures at this time to all EPA administrative penalty authorities under CERCLA section 109 and EPCRA section 325. The Agency is currently considering developing procedures for assessing Class I penalties that would be less formal than the Part 22 procedures and that would apply to penalties under section 109(b)(1) of CERCLA, section 325(b)(1) of EPCRA, section 325(d) of EPCRA, and to certain civil penalties under section 325(c) of EPCRA.

EPA promulgated Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits at 40 CFR Part 22. Those rules govern the administrative assessment of penalties under other statutes administered by EPA subject to the adjudicatory hearing requirements of the APA or for which EPA has determined such procedures are appropriate. The Consolidated Rules are designed to provide a common set of procedural rules for certain of EPA's administrative penalty programs, in order to reduce paperwork, inconsistency, and the burden on the regulated community. *See* 45 FR 24360 (April 9, 1980).

Under the Consolidated Rules of Practice, EPA will assess CERCLA section 109 penalties and EPCRA section 325 penalties by an order issued after opportunity for a hearing on the record. EPA has concluded that the Consolidated Rules should be followed, on an interim final basis, as the procedural framework to assess penalties under section 109 of CERCLA and section 325 of EPCRA. Accordingly, this interim final rule provides that the Consolidated Rules will govern adjudicatory proceedings for the assessment of civil administrative penalties under section 109 of CERCLA and section 325 of EPCRA.

In addition, as part of today's rulemaking, EPA is promulgating, on an interim final basis, supplements to the Consolidated Rules which apply to CERCLA section 109 and EPCRA section 325 penalty procedures. The supplemental rule is necessary because of requirements specific to provisions of the two statutes. The supplemental rules codify subpoena requirements and the procedures for seeking judicial review of penalty assessments, and describe certain procedures for payment and collection of penalties assessed.

EPA requests comments on any of the above matters.

Interim Final Rule

EPA is issuing the rule on an interim final basis pursuant to 5 U.S.C. 553(b)(A) and (B), which allows the issuance of rules without prior notice and comment where the rules concern agency practice or procedure or where the Agency finds for good cause that prior notice and comment is unnecessary. Both of these criteria are met by these rules. The statutes specifically identify the type of hearing to be accorded for assessment of Class II penalties, *i.e.* formal adjudications under section 554 of the APA. Although other sections are silent as to the type of procedures or specifically authorize a less formal set of procedures, the Agency has elected to apply the formal adjudications requirements to all penalty actions at this time. EPA has long-established regulations implementing section 554 hearings for civil penalty assessment under several other environmental statutes. The regulations, codified at 40 CFR Part 22, were promulgated after notice and opportunity to comment. Because the statute leaves little discretion with respect to the type of procedure to be afforded for Class II violations and this rule makes well-established rules providing full adjudicatory procedures applicable to all penalty proceedings under section 109 of CERCLA and section 325 of EPCRA, EPA believes that notice and comment on this rule is "unnecessary" under section 553 of the APA.

Furthermore, use of the Consolidated Rules on an interim basis will facilitate EPA beginning prompt implementation of the administrative penalty authority, using uniform procedures while satisfying the procedural and substantive requirements established by CERCLA and EPCRA. EPA is, however, making this rule "interim final" in order to allow an opportunity for public comment and a revision of the final rule as necessary in the future based on public comments.

The interim final rule is effective upon publication in the **Federal Register**. The Consolidated Rules of Practice will govern proceedings for the assessment of administrative penalties under section 109 of CERCLA and section 325 of EPCRA for which a complaint is filed after that date. The proposed interim final rule will be used by EPA as guidance prior to that date.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment, a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities. In such circumstances, a regulatory flexibility analysis is not required.

The expected impact of the rule on small entities is negligible. The rule codifies already existing statutory provisions and is procedural. Thus, it does not impose additional regulatory requirements on small entities.

Accordingly, I hereby certify that these regulations will not have a significant impact on a substantial number of small entities. These regulations, therefore, do not require a regulatory flexibility analysis.

Executive Order No. 12291

Under Executive Order 12291, the Agency must judge whether a regulation is "major" and thus subject to the requirement to prepare a Regulatory Impact Analysis. The notice published today is not major because the rule will not result in an effect on the economy of $100 million or more, will not result in increased costs or prices, will not have significant adverse effects on competition, employment, investment,

productivity, and innovation, and will not significantly disrupt domestic or export markets. Therefore, the Agency has not prepared a Regulatory Impact Analysis under the Executive Order.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order No. 12291.

Paperwork Reduction Act

These interim final rules do not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 22

Administrative practice and procedures, Environmental protection, Extremely hazardous substances, Hazardous chemicals, Hazardous substances, Hazardous wastes, Penalties, Superfund, Title III of SARA.

Dated: May 8, 1989.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, and under authority of section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9609, and section 325 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. 11045, and Executive Order 12580, Title 40 of the Code of Federal Regulations is amended on an interim basis effective on May 16, 1989, as follows:

PART 22—[AMENDED]

1. The authority citation for Part 22 is revised to read as follows:

Authority: 15 U.S.C. sec. 2615; 42 U.S.C. secs. 7545 and 7601; 7 U.S.C. secs. 136(1) and (m); 33 U.S.C. secs. 1319, 1415 and 1418; 42 U.S.C. secs. 6912, 6928, and 6991(e); 42 U.S.C. sec. 9609; 42 U.S.C. sec. 11045.

* * * * *

2. Section 22.01 is amended by revising paragraph (a)(6) and by adding paragraphs (a)(7) and (a)(8) to read as follows:

§ 22.01 Scope of these rules.

(a) * * *

(6) The assessment of any Class II penalty under section 309(g) of the Clean Water Act (33 U.S.C. 1319(g));

(7) The assessment of any administrative penalty under section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9609);

(8) The assessment of any administrative penalty under section 325 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA) (42 U.S.C. 11045).

* * * * *

3. Add a new § 22.39, to read as follows:

§ 22.39 Supplemental rules of practice governing the administrative assessment of administrative penalties under section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(a) *Scope of these Supplemental rules.* These Supplemental rules of practice shall govern, in conjunction with the preceding Consolidated Rules of Practice (40 CFR Part 22), administrative proceedings for the assessment of any civil penalty under section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9609). Where inconsistencies exist between these Supplemental rules and the Consolidated Rules (§§ 22.01 through 22.32), these Supplemental rules shall apply.

(b) *Subpoenas.* (1) The attendance and testimony of witnesses or the production of relevant papers, books, and documents may be required by subpoena. The Presiding Officer may grant a request for a subpoena upon a showing of (i) the grounds and necessity therefor, and (ii) the materiality and relevancy of the evidence to be adduced. Requests for the production of documents shall describe the evidence sought as specifically as practicable.

(2) Subpoenas shall be served in accordance with § 22.05(b)(1) of the Consolidated Rules of Practice.

(3) Witnesses summoned before the Presiding Officer shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Fees shall be paid by the party at whose instance the witness appears. Where a witness appears pursuant to a request initiated by the Presiding Officer, fees shall be paid by the Agency.

(c) *Judicial review.* Any person who requested a hearing with respect to a Class II civil penalty under section 109 of CERCLA and who is the recipient of a final order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia or for any other circuit in which such person resides or transacts business. Any person who requested a hearing with respect to a Class I civil penalty under section 109 of CERCLA and who is the recipient of a final order assessing the civil penalty may file a petition for judicial review of such order with the appropriate district court of the United States. All petitions must be filed within 30 days of the date the order making the assessment was issued.

(d) *Payment of civil penalty assessed.* Payment of civil penalties finally assessed by the Regional Administrator shall be made by forwarding a cashier's check, payable to the "EPA, Hazardous Substances Superfund," in the amount assessed, and noting the case title and docket number, to the appropriate regional Superfund Lockbox Depository. Notice of payment must be sent by Respondent to the Hearing Clerk for inclusion as part of the administrative record for the proceeding in which the civil penalty was assessed. Interest on overdue payments shall be collected pursuant to the Debt Collection Act, 37 U.S.C. 3717.

4. Add a new § 22.40, to read as follows:

§ 22.40 Supplemental rules of practice governing the administrative assessment of administrative penalties under section 325 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA).

(a) *Scope of these Supplemental Rules.* These Supplemental rules of practice shall govern, in conjunction with the preceding Consolidated Rules of Practice (40 CFR Part 22), administrative proceedings for the assessment of any civil penalty under section 325 for violations of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA). Where inconsistencies exist between these Supplemental rules and the Consolidated Rules, (§§ 22.01 through 22.32) these Supplemental rules shall apply.

(b) *Subpoenas.* (1) The attendance and testimony of witnesses or the production of relevant papers, books, and documents may be required by subpoena. The Presiding Officer may grant a request for a subpoena upon a showing of (i) the grounds and necessity therefore, and (ii) the materiality and relevancy of the evidence to be adduced. Requests for the production of documents shall describe the evidence sought as specifically as practicable.

(2) Subpoenas shall be served in accordance with § 22.05(b)(1) of the Consolidated Rules of Practice.

(3) Witnesses summoned before the Presiding Officer shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Fees shall be paid by the party at whose instance the witness appears. Where a witness appears pursuant to request initiated by the Presiding Officer, fees shall be paid by the Agency.

(c) *Judicial review.* Any person against whom a civil penalty is assessed may seek judicial review in the appropriate district court of the United States by filing a notice of appeal and by simultaneously sending a copy of such notice by certified mail to the Administrator. The notice must be filed within 30 days of the date the order making such assessment was issued. The Administrator shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed.

(d) *Procedures for collection of civil penalty.* If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the United States, the Administrator may request the Attorney General of the United States to institute a civil action in an appropriate district court of the United States to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In hearing such action, the court shall have authority to review the violation and the assessment of the civil penalty on the record. Interest on overdue payments shall be collected pursuant to the Debt Collection Act, 37 U.S.C. 3717.

[FR Doc. 89-11703 Filed 5-15-89; 8:45 am]

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federal register

Tuesday
May 16, 1989

Part IV

The President

Proclamation 5977—National Farm Safety Week, 1989

Federal Register
Vol. 54, No. 93
Tuesday, May 16, 1989

Presidential Documents

Title 3—

The President

Proclamation 5977 of May 12, 1989

National Farm Safety Week, 1989

By the President of the United States of America

A Proclamation

Throughout our Nation's history, agriculture has been a source of strength and pride. Providing food for a growing country and settling a vast continent, farmers and ranchers have been vital to the development of American culture and commerce. Today, our country shares an abundance of agricultural goods with millions of people around the world.

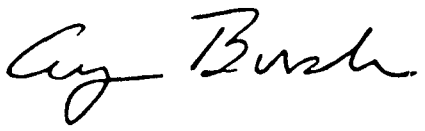
Unfortunately, farmers and ranchers are often seriously hurt or disabled by accidents or illness. Far too often, tragic accidents on farms and ranches involve children. Agriculture's accidental death and injury rates are now among the highest of all major industries, bringing devastating losses and suffering to rural families and their communities.

Although much as been done to reduce risks to the health and safety of ranch and farm workers, we must do more to preserve the well-being of those who give us so much. Simple, inexpensive measures could prevent most accidents and work-related illnesses. Individuals can avoid injury and illness by exercising greater caution during the course of their daily activities and by using recommended protective gear. Equipment manufacturers can help prevent accidents by installing improved safety features on farm machinery. Parents and rural schools can protect children by teaching them rules of safety.

During National Farm Safety Week, we express our concern, as well as our appreciation, for the Nation's farmers and ranchers. Because autumn brings the rush of harvest to rural America, this busy season is an appropriate time to underscore our concern for farm and ranch families by renewing our support for efforts to improve their health and safety. A season marked by the sense of accomplishment and productivity should not be marred by tragedy.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of September 17 through September 23, 1989, as National Farm Safety Week. I urge all persons who live and work on farms and ranches to slow down and take every precaution to protect their safety and health—on the job, on the road, at home, and at leisure. I also urge them to protect their children by example and instruction in safe practices. I call upon organizations involved in agriculture to strengthen their support for community health and safety programs, and I encourage all Americans to take part in appropriate activities in observance of National Farm Safety Week as we acknowledge the immense contributions that men and women in agriculture make to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of May, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.



[FR Doc. 89-11925
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Billing code 3195-01-M

federal register

Tuesday
May 16, 1989

Part V

Department of Commerce

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Correction to Public Meeting Dates and Location; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Correction to Public Meeting Dates and Location

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

A correction has been made regarding the dates and location for the public meeting of the Pacific Fishery Management Council's groundfish fishery management plan (FMP) Rewrite Oversight Group. The meeting will not take place on May 22–23, 1989, at the Red Lion Inn/Portland Center, Astoria Room, as previously published on May 12, 1989, at 54 FR 20627. Instead, the meeting will take place on May 17–18, 1989, in the conference room of the Pacific Marine fisheries Commission, 2075 SW. First Avenue, Portland, OR. The meeting will begin at 9:30 a.m., on May 17.

All other information previously published remains unchanged. For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2000 SW. First Avenue, Portland, OR, 97201; telephone: (503) 326–6352.

Date: May 12, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89–11913 Filed 5–15–89; 11:27 am]

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